



WILLIAMS MULLEN

MEMORANDUM

TO: Fay Silverman

CC: Boyd Allison
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FROM: Ralph L. "Bill" Axselle, Jr.
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DATE: March 5, 2007

RE: 2007 Legislative Summary – Virginia Mortgage Lenders Association

The 2007 Virginia General Assembly session for the Virginia Mortgage Lenders Association (VMLA) was one of monitoring legislation and opposing a number of bills that would have done harm to the mortgage lending industry. The session did not have any bills on behalf of which VMLA was an active proponent. Of the bills on which VMLA's legislative advocates were most active, two topics that were of particular interest were those involving freezes on consumer credit reports and regulation of mortgage servicing activities. VMLA was successful in defeating all of the bills addressing these topics. In fact, all bills posing a potential threat to the mortgage lending industry were defeated prior to crossover this year.

A complete list of the bills that were followed over the course of the session is attached to this memo for your easy reference.

Credit File Freeze

The topic of allowing consumers to freeze access to their credit reports was once again a popular topic for legislators. No fewer than eight bills were introduced this session that allowed consumers to freeze their credit reports. Much of the legislation was attempting to address consumer needs in the event identity theft had occurred. Opposition to the bills was widespread throughout a variety of industries. Groups other than VMLA who opposed the legislation included the Virginia Auto Dealers Association, the Virginia Bankers Association, Virginia Association of Realtors, and various other retail, insurance and financial organizations.

Opposition to the bills was based primarily on the extensive regulation of credit reporting that already exists at the federal level, as well as the difficulties posed to everyday business transactions in the event a consumer's credit report is frozen. Such things as shopping for a mortgage or receiving a pre-approval letter would be much slower and more difficult if a consumer has to wait for the credit reporting agencies to unfreeze his or her credit report. Arguments were also made that consumer protections were already in place and that consumers needed to be properly informed as to their protections when identity theft may have occurred.

Working as a coalition, the groups in opposition to the legislation made numerous visits to legislators on the Commerce and Labor Committees in the House and Senate as well as holding meetings with the patrons of the bills. Ultimately, all of the bills were either defeated, tabled in committee or stricken from the docket, often at the patron's request. The coalition was able to defeat all of the bills in their house of introduction, meaning that all of the bills were dead prior to the crossover deadline.

It is anticipated that the credit report freeze issue will remain a topic of conversation in future sessions.

Mortgage Servicing

For the second year in a row, Senator Creigh Deeds introduced an extensive bill attempting to regulate and impose penalties on mortgage servicers. Senate Bill 989 attempted to regulate the behavior of individuals servicing mortgage loans and impose penalties when certain actions are taken or when a required action is not taken.

Unlike last year's bill, SB989 as initially written applied only to licensed mortgage lenders due to the fact that it was inserted into the Virginia Mortgage Lender and Broker Act. Since such institutions as banks and credit unions are exempt from the Lender and Broker Act, the new law would not have applied to them. Due to these exemptions, VMLA was initially left on its own to oppose the bill.

VMLA's opposition to the bill was based on its potential to create a state system that was duplicative of federal law and presented the likelihood that state rules would conflict with federal requirements. Additionally, since many mortgage lenders are exempt from the act, the bill would have the result of treating mortgage servicers differently, despite the fact that there is very little difference in how they conduct their business. The ambiguity of some of the language in the bill also posed potential risks for servicers, depending on how requirements were interpreted.

In opposing the bill, we developed talking points and made visits to all of the legislators on the Senate Commerce and Labor Committee. We also worked closely with the National Mortgage Bankers Association and Countrywide Mortgage to generate opposition to the bill within the industry. These efforts included drafting a letter to the members of the committee as well as emails and phone calls to legislators from industry participants.

While we were confident we could defeat the bill in committee, we were further assisted when the patron indicated that he intended to include all mortgage servicers in the legislation and

not just those subject to the Virginia Mortgage Lender and Broker Act. Now with the banks and credit unions also in opposition, we were able to soundly defeat the legislation when no one on the committee seconded the motion to report the bill.

Despite the fact that we won a resounding victory on this issue, the senator is likely to reintroduce the bill next year. The issue continues to be popular with some of his constituents and creates a politically painful process for those opposing the bill, including the mortgage lending industry and our legislative supporters. In the period between sessions, VMLA should consider further studying the issue and determine how we can proactively address any complaints that may be made by consumers or legislators.

Transportation Funding

The transportation funding agreement that was reached by the House and Senate includes an additional \$0.40 per \$100 grantor's tax as part of the Northern Virginia and Hampton Roads regional funding plans. This fee, along with other increases, would have to be approved by the localities in Northern Virginia and Hampton Roads before they could be implemented.

The Governor has already expressed doubts regarding the viability of the plan and has pledged to make changes. At this time, it is extremely difficult to predict whether any grantor's tax will be included in the final agreement, if one is ultimately reached.

Looking Forward

Over the past sessions, VMLA has been very successful in both having legislation passed which it supports and defeating legislation which it opposes. VMLA can build on this success by continuing to develop its relationships with legislators and educating them on the issues facing the mortgage lending industry. VMLA needs to continue the work of its PAC to assist in the fundraising efforts of legislators, focusing on those on the Commerce and Labor committees who have a greater understanding of issues affecting mortgage lenders.

VMLA should also give some thought to formulating positions on certain types of legislation prior to the start of the General Assembly session. Given that credit file freezes and mortgage servicing are issues likely to arise once again during the legislative process, it could potentially be of some benefit to have prepared responses as well as alternatives to provide to legislators.