

# Senate Bill No. 437

(By Senators Tucker, McCabe, Palumbo and Plymale)

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[Introduced January 27, 2014; referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.]

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A BILL to amend and reenact §31-17-11 of the Code of West Virginia, 1931, as amended, relating to the filing of reports, data and other information deemed necessary by the Commissioner of Financial Institutions with the Division of Financial Institutions; permitting the commissioner to determine when those reports, data or information are filed; and providing that in addition to the reports not being public records, the filed data and information are also not public records.

*Be it enacted by the Legislature of West Virginia:*

That §31-17-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 17. WEST VIRGINIA RESIDENTIAL  
MORTGAGE LENDER, BROKER  
AND SERVICER ACT.**

**§31-17-11. Records and reports; examination of records;  
analysis.**

1 (a) Every lender and broker licensee shall maintain at his  
2 or her place of business in this state, if any, or if he or she has  
3 no place of business in this state, at his or her principal place  
4 of business outside this state, such books, accounts and  
5 records relating to all transactions within this article as are  
6 necessary to enable the commissioner to enforce the  
7 provisions of this article. All the books, accounts and records  
8 shall be preserved, exhibited to the commissioner and kept  
9 available as provided herein for the reasonable period of time  
10 as the commissioner may by rules require. The commissioner  
11 is hereby authorized to prescribe by rules the minimum  
12 information to be shown in the books, accounts and records.

13 (b) Each licensee shall file a report through the  
14 Nationwide Mortgage Licensing System and Registry under

15 oath or affirmation concerning his or her business and  
16 operations in this state for the defined reporting period  
17 established by the Nationwide Mortgage Licensing System  
18 and Registry and on a date established by the Nationwide  
19 Mortgage Licensing System and Registry. ~~These reports~~ The  
20 commissioner may direct that the reports required by this  
21 subsection and any other reports, data or information deemed  
22 necessary by the commissioner be filed directly with the  
23 Division of Financial Institutions on a date to be determined  
24 by the commissioner. The reports, data and information filed  
25 pursuant to this subsection are not public records and may  
26 not be open to public inspection. ~~The commissioner may~~  
27 ~~direct that the reports required by this subsection be filed~~  
28 ~~directly with the Division of Banking.~~

29 (c) The commissioner may, at his or her discretion, make  
30 or cause to be made an examination of the books, accounts  
31 and records of every lender or broker licensee pertaining to  
32 primary and subordinate mortgage loans made in this state  
33 under the provisions of this article, for the purpose of

34 determining whether each lender and broker licensee is  
35 complying with the provisions hereof and for the purpose of  
36 verifying each lender or broker licensee's annual report. If  
37 the examination is made outside this state, the licensee shall  
38 pay the cost thereof in like manner as applicants are required  
39 to pay the cost of investigations outside this state.

40 (d) The commissioner shall publish annually a list of the  
41 licenses issued under this chapter and shall direct consumers  
42 to public information available through the Nationwide  
43 Mortgage Licensing System and Registry.

44 (e) The commissioner may enter into cooperative and  
45 information-sharing agreements with regulators in other  
46 states or with federal authorities to discharge his or her  
47 responsibilities under this article.

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(NOTE: The purpose of this bill is to permit the Commissioner of Financial Institutions to require licensees to file certain reports, data or information directly with the Division of Financial Institutions. The bill permits the commissioner to determine when those reports, data or information are filed. The bill states that in addition to the reports not being public records, the filed data and information are also not public records.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)