

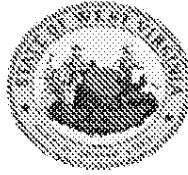
From: [Terri Shock](#)
To: [Kathy Lawson](#)
Subject: Mortgage Rule
Date: Monday, July 21, 2025 11:24:46 AM

Page 6: it looks like we have two 6.1.p's. Appraisal(s) of the property should be 6.1.n. I believe.

Page 8: Documentation of Ability to Repay. Question, should we consider saying "Such assessment must be provided to the borrower(s) and consider...

The reason I ask, we are looking at an exam wherein the standard ATRs (that do not require signature) were in the files, but it's hard to tell if they were provided to the borrowers or simply part of the underwriting docs.

Terri Shock
Director of Nondepository Institutions
West Virginia Division of Financial Institutions
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July 23, 2025

Terri Shock
Director of Nondepository Institutions
900 Pennsylvania Avenue, Suite 306
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RE: Amendment to 106 CSR 5 -- Rule Pertaining to Mortgage Lenders, Brokers, and Loan Originators

Dear Ms. Shock:

The Division of Financial Institutions appreciates your feedback on the mortgage rule that has been out for public comment.

The Division has made changes to the rule in response to your comment. Specifically, we have added the phrase "must be provided to the borrower" to section eleven of the rule pertaining to documentation of ability to repay.

Thank you for your feedback. The rule will be reviewed by the Legislative Rulemaking Review Committee at an interim meeting sometime this fall. At that stage, the committee may make additional changes to the rule prior to introduction during the 2026 Legislative Session.

Sincerely,

M. Katherine Lawson

M. Katherine Lawson
General Counsel

July 21, 2025

Ms. Kathy Lawson
General Counsel
WV Department of Financial Institutions
900 Pennsylvania Ave Suite 360
Charleston, WV 25302

RE: Amendment to Rule Pertaining to Mortgage Lenders, Brokers, and Loan Originators

Dear Ms. Lawson,

On behalf of First Home Mortgage Corporation (“FHMC”), we respectfully submit the following comments in response to the proposed amendments to 106 C.S.R. § 5-1 et seq., specifically with respect to the inclusion of “text messages” as records that must be maintained under proposed rules §106-5-3.1 (g), §106-5-4.1 (e), §106-5-5.1 (i), and §106-5-6.1(q).

FHMC appreciates the ongoing efforts to enhance transparency and consumer protection in the residential mortgage lending process. However, FMHC has serious concerns about the feasibility, legality, and implications of a rule requiring the retention of *all* text message communications for a period of thirty-six (36) months.

As an initial matter, the phrase “text messages” is not defined within 106 C.S.R. § 5-1 et seq., nor West Virginia Code § 31-17-1 et seq. or § 31-17A-1 et seq. Accordingly, the phrase is open to interpretation. Defining specifically the phrase “text messages” will prevent ambiguity and ensure consistent application. Clearly defining the phrase “text messages” will eliminate the need for after-the-fact interpretation by courts, thus saving time and resources while increasing predictability.

Additionally, we believe the inclusion of “text messages” within required records to be maintained, however the phrase is defined, may have unintended consequences for licensees that operate under a under a bring-your-own-device (BYOD) policy, such as FHMC. A BYOD policy allows employees to use their personal smartphones for work-related communications. BYOD policies are common within the industry, providing flexibility for employees and reducing costs for employers, which in turn inure to the benefit of consumers. However, a BYOD policy raises serious concerns regarding employee privacy when coupled with any regulatory expectation that FHMC (and similar companies) collect, monitor, or store personal text messages. In fact, a broad definition of

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“text messages” coupled with a regulatory expectation that such messages be maintained by an employer likely runs afoul of West Virginia Code § 21-5H-1.

An employer generally does not have the right to access or retain personal communications from an employee's privately owned device without express consent. Even with consent, attempts to harvest messages from personal devices risk sweeping in a range of sensitive information creating substantial privacy risks and potential legal exposure for employers. Notably, FHMC does not possess existing technological infrastructure that would allow it to segregate and collect only business-related messages from an employee's device. Implementing such infrastructure would require extensive investment of both time and money, and likely would remain imperfect in practice. This significant burden, both financially and administratively, while intruding into areas of employee privacy, should be avoided. This is not just an FHMC concern; it is anticipated that similarly situated entities would experience the same burdens and consequences of the proposed rule.

FHMC respectfully urges the Division of Financial Institutions to reconsider the proposed requirement in light of the serious privacy, logistical, and legal issues raised above. FHMC believes that the goal of consumer protection can be achieved without imposing unworkable or intrusive mandates on regulated entities.

Thank you for the opportunity to comment. If you have any questions or wish to discuss any aspect of our comments, please feel free to contact me.

Sincerely,

/s/Bryan N. Price

Bryan Price, Esq.

Joshua R. Camp, Esq.

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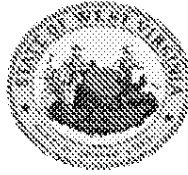
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Anthony M. Cordwell
First Home Mortgage Corporation



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July 23, 2025

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Charleston, WV 25338

RE: Amendment to 106 CSR 5 -- Rule Pertaining to Mortgage Lenders, Brokers, and Loan Originators

Dear Mr. Price:

The Division of Financial Institutions appreciates your feedback on the mortgage rule that has been out for public comment.

The Division has taken your comments and concerns under advisement and eliminated "text messages" from the recordkeeping requirements of the proposed amendments.

Thank you for your feedback. The rule will be reviewed by the Legislative Rulemaking Review Committee at an interim meeting sometime this fall. At that stage, the committee may make additional changes to the rule prior to introduction during the 2026 Legislative Session.

Sincerely,

M. Katherine Lawson

M. Katherine Lawson
General Counsel