

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2025

H

2

HOUSE BILL 762  
Committee Substitute Favorable 4/15/25

Short Title: Modernize NC S.A.F.E. Act.

(Public)

Sponsors:

Referred to:

April 7, 2025

A BILL TO BE ENTITLED  
AN ACT TO MODERNIZE THE NORTH CAROLINA SECURE AND FAIR  
ENFORCEMENT (S.A.F.E) MORTGAGE LICENSING ACT.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 19B of Chapter 53 of the General Statutes reads as rewritten:

"Article 19B.

"The Secure and Fair Enforcement Mortgage Licensing Act.

"Part 1. Application, Licensing, Examination, and Enforcement.

**"§ 53-244.010. Title.**

This ~~act~~ Article may be cited as the "North Carolina Secure and Fair Enforcement (S.A.F.E.)  
Mortgage Licensing Act."

**"§ 53-244.020. Purpose and construction.**

(a) Purpose. – A primary purpose of this Article is to protect consumers seeking  
residential mortgage loans and to ensure that the mortgage lending industry operates without  
unfair, deceptive, and fraudulent practices on the part of mortgage loan originators. Therefore,  
the General Assembly establishes within this Article an effective system of supervision and  
enforcement of the mortgage lending industry by giving the Commissioner of Banks broad  
administrative authority to administer, interpret, and enforce this Article and adopt rules  
implementing this Article in order to carry out the intentions of the General Assembly.

(b) Construction. – It is the intent of the General Assembly that the provisions of this  
Article be liberally construed to effect the purposes stated or clearly encompassed by the Article.

**"§ 53-244.030. Definitions.**

For purposes of ~~the~~ this Article, the following definitions apply:

(1) ~~"Affiliate" means any Affiliate. – Any~~ company that controls, is controlled by,  
or is under common control with another company, as set forth in the Bank  
Holding Company Act of 1956 (12 U.S.C. § 1841, et seq.), ~~as amended from~~  
~~time to time.~~ seq.)

(2) ~~"Audited Statement of Financial Condition" means a~~ Audited statement of  
financial condition. – A statement of financial condition prepared in  
accordance with generally accepted accounting principles and certified by a  
certified public accountant as fairly and accurately reflecting the financial  
condition of the licensee as of the date ~~specified in the statement.~~ specified.

(2a) ~~"Banking Commission" means the~~ Banking Commission. – The North  
Carolina Banking Commission. ~~For the purpose of complying with this Article~~  
~~by credit unions, Banking Commission means the North Carolina Credit~~  
~~Union Commission.~~



\* H 7 6 2 - V - 2 \*

- (2b) Bona fide nonprofit. – Has the same meaning as in 12 C.F.R. § 1008.103(e)(7)(ii).
- (3) ~~"Branch manager" means the individual~~ Branch manager. – A mortgage loan originator who meets the requirements of G.S. 53-244.050(b), has at least three years of residential mortgage lending experience, and is assigned to, is in charge of, and is responsible for the business operations of a branch office of a mortgage broker or mortgage lender office.
- (4) ~~"Branch office" means an~~ Branch office. – An office of a mortgage broker or mortgage lender that is open to the public, separate and distinct from the mortgage broker's or lender's principal office office, and consists of at least one enclosed room or building of stationary construction from which its employees engage in the mortgage business. A branch office shall not be located at an individual's home or residence.
- (5) ~~"Certified Statement of Financial Condition" means a~~ Certified statement of financial condition. – A statement of financial condition prepared in accordance with generally accepted accounting principles and certified by the preparer or licensee as fairly and accurately reflecting the financial condition of the licensee as of the date specified in the statement specified.
- (6) ~~"Commissioner" means the~~ Commissioner. – The North Carolina Commissioner of Banks and the Commissioner's designees. For the purpose of compliance with this Article by credit unions, Commissioner means the Administrator of the Credit Union Division of the Department of Commerce.
- (7) ~~"Control" means the~~ Control. – The power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any person that (i) is a director, general partner, or executive officer; (ii) directly or indirectly has the right to vote ten percent (10%) or more of a class of voting security or has the power to sell or direct the sale of ten percent (10%) or more of a class of voting securities; (iii) in the case of a limited liability company, is a managing member; or (iv) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten percent (10%) or more of the capital, is presumed to control the company.
- (8) ~~"Depository institution" has~~ Depository institution. – Has the same meaning as in section 3 of the Federal Deposit Insurance Act Act, as periodically amended, and includes any credit union whose share and deposit accounts are insured by the National Credit Union Administration under the Federal Credit Union Act Act, as periodically amended.
- (9) ~~"Dwelling" means a~~ Dwelling. – A residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, manufactured home, mobile home, or trailer if it is used as a residence.
- (10) ~~"Employee" means an~~ Employee. – An individual who has an employment relationship with a mortgage broker, mortgage lender, or mortgage servicer and servicer, or mortgage origination support registrant, who is treated as a common law employee for purposes of compliance with the federal income tax laws laws, and whose income is reported on IRS Form W-2.
- (11) ~~"Engaging in the mortgage business" means:~~ Engaging in the mortgage business. – Any of the following:
- a. For compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, to accept or offer to accept accept, or to solicit or offer to solicit, an application for a residential mortgage

- loan from prospective borrowers, solicit or offer to solicit a residential mortgage loan from prospective borrowers, loan, to negotiate the terms or conditions of a residential mortgage loan with prospective borrowers, loan, to issue residential mortgage loan commitments or commitments, to issue interest rate guarantee agreements to prospective borrowers, agreements for residential mortgage loans, or to engage in tablefunding of residential mortgage loans, whether any such of these acts are done through contact by telephone, by electronic means, by mail, or in person with the borrowers or prospective borrowers.
- b. To make or fund, ~~or~~ offer to make or fund, or advance funds on residential mortgage loans for compensation or gain, or in the expectation of compensation or gain.
- c. ~~To engage, whether for~~ For compensation or gain from another or on one's own behalf, ~~in the business of receiving any scheduled periodic payments from a borrower pursuant to the terms of any a residential mortgage loan, including amounts for escrow accounts, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the residential mortgage loan, the residential mortgage loan loan or the servicing documents, documents or servicing contract, or otherwise to contract, to do any of the following:~~
1. To collect or receive payments on existing obligations due and owing to the mortgage lender or mortgage servicer, including payments of principal, interest, escrow amounts, and other amounts due.
  2. To collect fees due to the mortgage lender or mortgage servicer.
  3. To work with the borrower and the mortgage lender or mortgage servicer to collect data and make decisions necessary to modify certain terms of those obligations either temporarily or permanently.
  4. To finalize collection through the foreclosure process under Chapter 45 of the General Statutes, forfeiture under Chapter 47H of the General Statutes, or repossession.
  5. To service a reverse mortgage loan.
- d. To meet the definition of the term "servicer" in 12 U.S.C. § 2605(i)(2) with respect to residential mortgage loans, 12 U.S.C. § 2605(i)(2).
- (11a) ~~This term does not apply to timeshare instruments, as defined in G.S. 93A-41. "Exclusive mortgage broker" means an Exclusive mortgage broker. – An individual who acts as a mortgage broker exclusively for a single mortgage lender or mortgage broker licensee or a single exempt mortgage lender and who is licensed pursuant to G.S. 53-244.050(b)(3). Unless otherwise indicated, an exclusive mortgage broker shall be is subject to the requirements of a mortgage broker under this Article.~~
- (12) ~~"Federal banking agencies" means the Federal banking agency. – The Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and or the Federal Deposit Insurance Corporation.~~
- (13) ~~"Immediate family member" means a Immediate family member. – A spouse, child, sibling, parent, grandparent, or grandchild, or the spouse of an~~

immediate family member. This term includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

(14) ~~"Individual" means a natural person.~~ Individual. – A human being.

(15) ~~"Licensee" means a Licensee. – A mortgage loan originator, transitional mortgage loan originator, exclusive mortgage broker, mortgage broker, mortgage lender, or mortgage servicer or other person who is licensed pursuant to this Article.~~

(16) ~~"Loan processor or underwriter" means an~~ Loan processor or underwriter. – An individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, licensed, registered, or exempt from licensing under this Article. Clerical or support duties may include, subsequent to the receipt of an application:

- a. The receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; ~~and loan.~~
- b. Communicating with a consumer to obtain the information necessary for the processing or underwriting of a residential mortgage loan, to the extent that ~~such the~~ communication does not include ~~offering or negotiating loan rates or terms offering, negotiating,~~ or counseling consumers ~~about~~ with respect to residential mortgage loan rates or terms.

Any ~~person~~ individual who represents to the public, through advertising or other means of communication, or provides information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator ~~shall not be~~ is not deemed to be a loan processor or underwriter under this definition.

(17) ~~"Loss mitigation specialist" means an~~ Loss mitigation specialist. – An employee of a mortgage lender or mortgage servicer authorized to (i) collect or receive payments, including payments of principal, interest, escrow amounts, and other amounts due on existing residential mortgage loans due and owing to the licensed lender or servicer when the borrower is in default or in reasonably foreseeable likelihood of default, when default is imminent, (ii) work with the borrower to collect data, and or (iii) make decisions necessary to modify, either temporarily or permanently, certain terms of those residential mortgage loans or to otherwise finalize collection through the foreclosure process. Such These decisions ~~shall~~ include any change in the principal amount of the debt, the rate of annual interest charged, the term of the loan, the waiver of any fees or charges, including late charges, the deferral of payments, or any other similar matter.

(18) ~~"Make a residential mortgage loan" means to~~ Make a residential mortgage loan. – To advance funds, to offer to advance funds, to make a commitment to advance funds to a borrower under a mortgage loan, or to fund a residential mortgage loan.

(19) ~~"Mortgage broker" means a~~ Mortgage broker. – A person engaged in the mortgage business as defined in sub-subdivision a. of subdivision (11)-(11)a. of this section.

(20) ~~"Mortgage lender" means a~~ Mortgage lender. – A person engaged in the mortgage business as defined in sub-subdivision b. of subdivision (11)-(11)b.

- of this section. However, ~~the definition of this term~~ does not include a person ~~who that~~ acts as a mortgage lender only in a tablefunding transaction.
- (21) ~~"Mortgage loan originator" means:~~ Mortgage loan originator. –
- a. An individual who for compensation or gain or in the expectation of compensation or gain, whether through contact by telephone, by electronic means, by mail, or in person with prospective borrowers, ~~either:~~ does any of the following:
1. Takes a residential mortgage loan application or offers or negotiates the terms or conditions of a residential mortgage ~~loan, loan.~~
  2. Accepts or offers to accept ~~applications for mortgage loans, an~~ application for a residential mortgage loan.
  3. Solicits or offers to solicit ~~a~~ an application for a residential mortgage loan, loan.
  4. ~~Negotiates the terms or conditions of a mortgage loan, or~~
  5. Issues residential mortgage loan commitments or interest rate guarantee agreements to prospective borrowers.
- b. ~~The term includes an individual acting solely as a loss mitigation specialist if the United States Department of Housing and Urban Development issues a guideline, rule, regulation, or interpretative letter that such individuals are loan originators as the term is defined by § 1503 of Title V of the Housing and Economic Recovery Act of 2008, Public Law 110-289, and only to the extent of such an issuance or determination.~~
- c. The term does not ~~include:~~ include any of the following:
1. An individual engaged solely as a loan processor or ~~underwriter; underwriter.~~
  2. A person ~~or entity~~ that only performs real estate brokerage ~~activities~~ activity and is licensed or registered as such in accordance with State law, unless the person ~~or entity~~ is compensated by a mortgage lender, a mortgage broker, or ~~other mortgage loan originator or by any agent of a mortgage lender, mortgage broker, or other mortgage loan originator; originator.~~
  3. A person ~~or entity~~ solely involved in extensions of credit or sale of timeshare instruments relating to timeshare plans, as ~~that term is defined in G.S. 93A-41(37); or G.S. 93A-41.~~
  4. An individual who only informs a prospective borrower of the availability of persons engaged in the mortgage business, does not take or assist in the completion of a loan application, and does not discuss specific terms or conditions of a residential mortgage loan. The taking of basic preapplication information for facilitating a residential mortgage loan transaction, such as the name and contact information of the prospective borrower, the prospective borrower's own assessment of creditworthiness, desired loan types, and resources to make a down payment, but not including social security number, credit score, credit or employment history, or specific rates of a desired residential mortgage loan, to connect prospective borrowers to persons engaged in the mortgage business does not prevent an individual from qualifying for this exclusion.

5. An individual who is a salesperson for a licensed manufactured housing retailer that performs the purely administrative and clerical tasks of physically handling or transmitting to a ~~licensed mortgage loan originator licensee~~ on behalf of a prospective borrower an application and other forms completed by the prospective borrower. Nothing in this ~~subpart~~ sub-sub-subdivision prohibits a salesperson, upon the written request of a ~~mortgage loan originator licensee~~ and after a prospective borrower completes an application, from pulling and transmitting a credit report with the application.
6. An individual acting solely as a loss mitigation specialist under 12 C.F.R. Part 1007, Appendix A, unless the Consumer Financial Protection Bureau amends this regulation to provide that acting as a loss mitigation specialist constitutes taking a loan application.
- (21a) ~~"Mortgage origination support registrant" or "registrant" means a "registrant."~~  
~~– A person engaged exclusively in the processing or underwriting of residential mortgage loans and not engaged in the mortgage business.~~
- (22) ~~"Mortgage servicer" means a Mortgage servicer. – A person that is directly or indirectly engaged in the mortgage business who directly or indirectly engages in the mortgage business as defined in sub-subdivision e. of subdivision (11) (11)c. of this section. This term includes master servicers.~~
- (23) ~~"Nationwide Mortgage Licensing System and Registry" means the mortgage licensing system NMLS. – The Nationwide Mortgage Licensing System and Registry, also known as the Nationwide Multistate Licensing System and Registry, including the State Examination System and any other electronic successor systems developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators, licensing, registration, and supervision of persons under this Article, pursuant to 12 U.S.C. § 5102(6) and 12 C.F.R. Part 1008.~~
- (24) ~~"Nontraditional mortgage product" means any Nontraditional mortgage product. – Any residential mortgage loan product other than a 30-year fixed rate mortgage.~~
- (25) ~~"Person" means an Person. – An individual, partnership, limited liability company, limited partnership, corporation, association, or other group engaged in joint business activities however organized.~~
- (26) ~~"Principal office" means a Principal office. – A principal place of business that shall consist of at least one enclosed room or building of stationary construction in which negotiations of residential mortgage loan transactions may be conducted and carried on in privacy and in which all of the books, records, and files pertaining to residential mortgage loan transactions relating to borrowers in this State are maintained. A principal office shall not be located at an individual's home or residence.~~
- (27) ~~"Qualifying individual" means a person Qualifying individual. – An individual who meets the experience and other requirements of G.S. 53-244.050(b) G.S. 53-244.050(b), has at least three years of residential mortgage lending or servicing experience, and who agrees to be primarily responsible for the operations of a licensed mortgage broker or mortgage lender or mortgage servicer licensee or registrant.~~

- (28) ~~"Real estate brokerage activity" means any~~ Real estate brokerage activity. – Any activity that involves offering or providing real estate brokerage services to the public, including any of the following:
- a. Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real ~~property; property.~~
  - b. Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real ~~property; property.~~
  - c. Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to any such ~~transaction; transaction.~~
  - d. Engaging in any activity for which a person ~~engaged in the activity~~ is required to be registered or licensed as a real estate agent or real estate broker under Chapter 93A of the General ~~Statutes; and Statutes.~~
  - e. ~~Offering to engage in any activity, or act in any capacity, described in sub-subdivision a., b., c., or d. of this subdivision.~~
- (29) ~~"Registered mortgage loan originator" means any~~ Registered mortgage loan originator. – Any individual who meets the definition of mortgage loan originator, is registered with, with and maintains a unique identifier through the Nationwide Mortgage Licensing System and Registry NMLS, and is an employee of of any of the following:
- a. A depository ~~institution; institution.~~
  - b. A subsidiary that is owned and controlled by a depository institution and regulated by a federal banking ~~agency; or agency.~~
  - c. An institution regulated by the Farm Credit Administration.
- (30) ~~"Residential mortgage loan or mortgage loan" means any~~ Residential mortgage loan. – Any loan or obligation made or represented to be made to a natural person or persons one or more individuals primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling located within this State or residential real estate upon which is constructed or intended to be constructed a dwelling. This term includes reverse mortgage loans under Article 21 of this Chapter and contracts for deed under Chapter 47H of the General Statutes.
- (31) ~~"Residential real estate" means any~~ Residential real estate. – Any real property located in this State upon which is constructed or intended to be constructed a dwelling.
- (32) ~~"RESPA" means the~~ RESPA. – The Real Estate Settlement Procedures Act, 12 U.S.C. § 2601, et seq., as it may be hereafter amended.
- (33) ~~"Tablefunding" means a~~ Tablefunding. – A transaction in which a person closes a residential mortgage loan in its own name but with funds provided by another and in to which the residential mortgage loan is assigned to the mortgage lender actually providing the funds within one business day of the funding of the loan.
- ~~(33a) "Transitional mortgage loan originator" means an individual who is authorized to act as a mortgage loan originator subject to a transitional mortgage loan originator license which is limited to a term of no more than 120 days and is not subject to reapplication, renewal, or extension by the Commissioner.~~

(34) ~~"Unique identifier" means a Unique identifier. – A number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry. NMLS.~~

**"§ 53-244.040. License and registration requirements.**

(a) Except as provided in subsection (d) of this section, no person ~~may~~ shall engage in the mortgage business or act as a mortgage loan originator with respect to any dwelling located in this State without first obtaining and maintaining a license under this Article. It ~~shall be~~ is unlawful for any ~~person, individual, other than an exempt person or a person licensed as a transitional mortgage loan originator, individual,~~ to act as a mortgage loan originator without a mortgage loan originator ~~license, which license that~~ license that authorizes an individual who is employed by a ~~licensee mortgage broker or mortgage lender~~ holding a license as provided in subsection (b) of this section to conduct the business of a mortgage loan originator.

Except as provided in subdivision (c1) of this section, no person shall act as a mortgage origination support registrant with respect to any dwelling located in this State without first obtaining and maintaining a registration under this Article. It is unlawful for any person, other than an exempt person, to act as a mortgage origination support registrant without registration that authorizes a registrant to sponsor and employ licensed mortgage loan originators to control and supervise the registrant's loan processors or underwriters in accordance with this Article, 12 U.S.C. § 5102(5), and 12 U.S.C. § 5103(b).

(a1) In anticipation of satisfaction of all requirements necessary to obtain a license as a mortgage loan originator under this Article, ~~a transitional mortgage loan originator license may be granted to an individual who has an active license to originate mortgage loans pursuant to the laws of any state or territory of the United States other than North Carolina, provided the individual registers, is fingerprinted, and maintains a unique identifier with the Nationwide Mortgage Licensing System and Registry at the time the individual submits a transitional mortgage loan originator application to the Commissioner. A transitional mortgage loan originator license may also be issued to a registered loan originator for the purpose of satisfying all requirements necessary to obtain a license as a mortgage loan originator under this Article if permitted by a guideline, rule, regulation, or interpretive letter which clarifies section 1503 of Title V of the Housing and Economic Recovery Act of 2008, P.L. 110-289, and only to the extent of such an issuance or determination.~~ an individual is deemed to have temporary authority to act as a mortgage loan originator in this State to the extent authorized by, and subject to the terms and conditions prescribed in, 12 U.S.C. § 5117. A mortgage lender or mortgage broker that employs an individual who is deemed to have temporary authority to act as a mortgage loan originator in this State pursuant to this section is subject to the requirements of this Article to the same extent as if the individual was a licensed mortgage loan originator. An individual who is deemed to have temporary authority to act as a mortgage loan originator in this State pursuant to this section and acts a mortgage loan originator is subject to the requirements of this Article to the same extent as if the individual was a licensed mortgage loan originator.

(b) ~~Four~~ Five types of licenses are granted to ~~entities~~ persons under this Article, and it ~~shall be~~ is unlawful for any person, other than an exempt person, to engage in the mortgage business without one of the following licenses:

(1) A mortgage broker license authorizes a person to act as a mortgage broker as defined in ~~G.S. 53-244.030(19).~~ G.S. 53-244.030.

(2) A mortgage lender license authorizes a person to act as a mortgage lender as defined in ~~G.S. 53-244.030(20).~~ G.S. 53-244.030, a mortgage broker as defined ~~under G.S. 53-244.030(19), in~~ G.S. 53-244.030, and ~~upon a registrant as defined in G.S. 53-244.030. Upon~~ notice to the Commissioner, a licensed mortgage lender may also act as a mortgage servicer as defined in ~~G.S. 53-244.030(22).~~ G.S. 53-244.030.



- (3) A mortgage servicer license authorizes a person to act only as a mortgage servicer as defined in G.S. 53-244.030(22); G.S. 53-244.030.
- (4) An exclusive mortgage broker license authorizes ~~a person an individual~~ to act as an exclusive mortgage broker as defined in G.S. 53-244.030(11a); G.S. 53-244.030.
- (5) A mortgage loan originator license authorizes the individual to act as a mortgage loan originator as defined in G.S. 53-244.030.
- (c) ~~Each mortgage loan originator and person engaged in the mortgage business must~~ Each person licensed or registered under this Article shall register with and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry, NMLS.
- (c1) A registrant operating in this State ~~must~~ shall register with the Commissioner. Upon issuance of the registration, a registrant ~~is authorized to~~ may sponsor and employ licensed mortgage loan originators ~~or transitional mortgage loan originators~~ to control and supervise the registrant's loan processors or underwriters in accordance with ~~Title V of the Housing and Economic Recovery Act of 2008, P.L. 110-289, and 24 C.F.R. 3400; this Article, 12 U.S.C. § 5102(5), and 12 U.S.C. § 5103(b).~~ Nothing in this subsection ~~shall be construed as authorizing~~ authorizes a registrant to engage in the mortgage business.
- (d) The following are exempt from all provisions of this Article except ~~the provisions of~~ G.S. 53-244.111; G.S. 53-244.111 and, where applicable, may also service residential mortgage loans.
- (1) Registered mortgage loan originators as defined in G.S. 53-244.030(29); G.S. 53-244.030.
- (2) Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of ~~an the individual's~~ immediate family member ~~of the individual~~ when making the family member a residential mortgage loan; loan.
- (3) Any individual seller who offers or negotiates terms and makes a residential mortgage loan secured by the dwelling that served as the selling individual's ~~residence; residence.~~
- (4) An attorney licensed pursuant to Chapter 84 of the General Statutes who negotiates the terms of a residential mortgage loan on behalf of a client in the course of and incident to the attorney's representation of the client, so long as the attorney does not hold himself or herself out as engaged in the mortgage business and is not compensated by a ~~mortgage lender, a mortgage broker, or other mortgage loan originator~~ person licensed under this Article when negotiating the terms of a residential mortgage loan; loan.
- (5) Any ~~entity~~ person described in G.S. 53-244.030(29)a., b., or c., upon ~~acceptance filing of the a~~ notice of exemption ~~filed~~ with the Commissioner as specified in G.S. 53-244.050(g); G.S. 53-244.050(g) or Administrator as specified in G.S. 53-244.050(h).
- (6) Any officer or employee of ~~an entity~~ a person described in subdivision (5) of this subsection when acting within the scope of his or her ~~employment; employment.~~
- (7) ~~A State or federally chartered credit union, upon filing of a notice of exemption with the Administrator of the Credit Union Division of the Department of Commerce as specified in G.S. 53-244.050(g); or~~
- (8) ~~Any person who, as seller, receives in one calendar year no more than five residential mortgage loans as security for purchase money obligations, unless the United States Department of Housing and Urban Development has expressly and definitively determined that such persons are loan originators as the term is defined by § 1503 of Title V of the Housing and Economic~~

~~Recovery Act of 2008, Public Law 110-289, and such determination is in effect on July 31, 2010.~~

- (9) A person, as defined in 12 C.F.R. § 1026.2(a)(22), that as seller, receives in one calendar year no more than three residential mortgage loans as security for purchase money obligations, as specified in 12 C.F.R. § 1026.36(a)(4).
- (10) An estate or trust that, as seller, receives in one calendar year no more than one residential mortgage loan as security for a purchase money obligation, as specified in 12 C.F.R. § 1026.36(a)(5).
- (11) Any agency of the federal government or any state, local, or municipal government, or their subsidiaries, making or servicing residential mortgage loans under specific authority of the laws of any state, territory, or the United States.
- (12) Any bona fide nonprofit corporation qualifying under section 501(c)(3) of the Internal Revenue Code that makes or services residential mortgage loans to promote home ownership or home improvements for disadvantaged homeowners upon filing of a notice of exemption with the Commissioner as specified in G.S. 53-244.050(g), so long as the corporation is not primarily in the business of soliciting, brokering, making, or servicing residential mortgage loans. Pursuant to 12 C.F.R. § 1008.103(e)(7)(i), mortgage loan originators employed by a bona fide nonprofit corporation are not required to be licensed under this Article.
- (13) A trust institution when acting in a fiduciary capacity, as defined in G.S. 53-301(a)(2), upon filing of a notice of exemption with the Commissioner as specified in G.S. 53-244.050(g).
- (14) A trustee of a trust created under the laws of any state or territory of the United States that makes a residential mortgage loan to a qualified beneficiary of the trust or an immediate family member of the grantor of the trust, upon filing of a notice of exemption with the Commissioner as specified in G.S. 53-244.050(g).

(e) ~~Each mortgage broker, mortgage lender, or mortgage servicer licensed under this Article, mortgage servicer, or registrant licensed or registered under this Article, shall have do~~ all of the following:

- (1) ~~Have a qualifying individual who operates the business under that person's individual's full charge, control, and supervision. Each mortgage broker, mortgage lender, or mortgage servicer licensed under this Article, or registrant registered under this Article, shall file~~
- (2) ~~File through the Nationwide Mortgage Licensing System and Registry NMLS a form acceptable to the Commissioner indicating the licensee's designation of designating a qualifying individual and each the qualifying individual's acceptance of the responsibility. Each mortgage broker, mortgage lender, or mortgage servicer licensed under this Article, or registrant registered under this Article, shall notify~~
- (3) Notify the Commissioner within 15 days of any change in its designated qualifying individual. Any individual licensee or registrant who operates as a sole proprietorship shall qualify as and be considered the qualifying individual for the purposes of this subsection.

(f) ~~Mortgage lenders and mortgage brokers may shall not operate branch offices, except as permitted by this Article. Branch offices shall be located in the United States. Each principal office and each branch office of a mortgage broker or mortgage lender licensed registered under this Article shall have a branch manager who meets the experience requirements under G.S. 53-244.050(b). The G.S. 53-244.030(3). If a mortgage lender or mortgage broker has no branch~~

offices, its qualifying individual for a licensee's business also may serve as the branch manager of one of the licensee's branch offices. ~~shall be licensed as a mortgage loan originator to oversee the origination activities conducted at the principal office.~~ Each mortgage broker or mortgage lender licensed under this Article shall file through the ~~Nationwide Mortgage Licensing System and Registry~~ NMLS a form acceptable to the Commissioner indicating the licensee's designation of a branch manager for each ~~branch~~ branch office. Each mortgage broker or mortgage lender licensed under this Article shall notify the Commissioner within 15 days of the change of any branch manager.

**"§ 53-244.050. License and registration application; claim of exemption.**

(a) ~~Applicants for a license or registration shall have a principal office located in the United States and shall apply through the Nationwide Mortgage Licensing System and Registry NMLS on a form acceptable to the Commissioner, including Commissioner.~~ An application shall include the following information:

- (1) The applicant's name and address, including street address, mailing address, ~~e-mail, email,~~ telephone contact information, and either the applicant's social security number or taxpayer identification number.
- (2) The applicant's form and place of organization, if applicable.
- (3) The applicant's proposed method of and locations for doing business, if applicable.
- (4) ~~The applicant's qualifications and business history of the applicant and, if applicable, the business history of any partner, officer, or director, any person or individual occupying a similar status or performing similar functions, or any person directly or indirectly controlling the applicant, including including all of the following:~~
  - a. A description of any injunction or administrative order by any state or federal authority to which the person is or has been ~~subject;~~ subject.
  - b. Any conviction, within the past ~~10-five~~ years, of a misdemeanor involving ~~moral turpitude or~~ any fraud, false statement or omission, any theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or conspiracy to commit any of these offenses, or involving any financial service or financial service-related ~~business; and~~ business.
  - c. Any felony convictions.
- (5) ~~With respect to an application for licensing as a mortgage lender, mortgage broker, or mortgage servicer, the~~ The applicant's financial condition, credit history, and business history, and, with respect to an application for licensing as a mortgage loan originator, the applicant's credit history and business history.
- (6) The applicant's consent to a federal and ~~State-state~~ criminal history record check and a set of the applicant's fingerprints in a form acceptable to the Commissioner. In the case of an applicant that is a person other than a ~~natural person, an individual,~~ each individual who has control of the applicant ~~or who is applicant,~~ the qualifying ~~individual individual,~~ or a branch manager shall consent to a federal and ~~State-state~~ criminal history record check and submit a set of that individual's fingerprints pursuant to this subdivision.

(b) The eligibility requirements for an application ~~for licensure or registration~~ under this Article are as follows:

- (1) Each individual applicant for licensure as a mortgage loan originator or qualifying individual ~~shall~~ shall satisfy all of the following requirements:
  - a. Be at least 18 years of ~~age;~~ age.

- b. Have satisfactorily completed, within the three years immediately preceding the date of application, the mortgage lending prelicensing education as required under ~~G.S. 53-244.070; and~~ G.S. 53-244.070. However, an individual applicant holding a valid mortgage loan originator license in any other state or territory shall receive credit for the education completed under G.S. 53-244.070(e) if the individual has completed all required continuing education for the preceding year. This sub-subdivision does not apply to a qualifying individual for a mortgage servicer.
- c. Have passed, within the five years immediately preceding the date of application, the test required under G.S. 53-244.080. However, an individual applicant holding a valid mortgage loan originator license in any other state or territory or a registered mortgage loan originator shall receive credit for the passage of the test under G.S. 53-244.080, except as otherwise provided in G.S. 53-244.080(e). This sub-subdivision does not apply to a qualifying individual for a mortgage servicer.
- (1a) ~~Each individual applicant for licensure as a transitional mortgage loan originator shall:~~
- a. ~~Be at least 18 years of age;~~
- b. ~~Have an active license to originate mortgage loans pursuant to the laws of any state or territory of the United States other than North Carolina or be a registered loan originator;~~
- c. ~~Have a valid unique identifier, registration, and fingerprints on file with the Nationwide Mortgage Licensing System and Registry;~~
- d. ~~Have been employed for a period of no less than two years as a mortgage loan originator; and~~
- e. ~~Have provided certification of employment with a mortgage lender or mortgage broker licensed under this Article, including an attestation by the employer that the applicant is in his or her employ.~~
- (1b) Each applicant for licensure as a mortgage lender, mortgage broker, or mortgage servicer and each applicant for registration as a registrant shall employ a qualifying individual.
- (1c) Each applicant shall register any branch office of a mortgage lender or mortgage broker and shall employ a branch manager.
- (2) ~~Each applicant for licensure as a mortgage broker, mortgage lender, or mortgage servicer, or registration as a registrant, at the time of application shall comply with the following requirements:~~
- a. ~~If the applicant is a sole proprietor, the applicant shall have at least three years of experience in residential mortgage lending or other experience or meet competency requirements as the Commissioner may impose.~~
- b. ~~If the applicant is a corporation, limited liability company, general or limited partnership, association, or other group engaged in a joint enterprise, however organized, at least one of its principal officers, managers, or general partners shall have three years of experience in residential mortgage lending or other experience or meet competency requirements as the Commissioner may impose.~~
- e. ~~If the applicant will be a qualifying individual or branch manager, the applicant shall have at least three years of experience in residential~~

- 1 ~~mortgage lending or other experience or meet competency~~  
2 ~~requirements as the Commissioner may impose.~~
- 3 (3) If an individual applicant to be licensed as a mortgage broker is a licensed  
4 mortgage loan originator and meets the requirements for licensure as a  
5 mortgage broker, but is not an employee as defined in ~~G.S. 53-244.030(10)~~  
6 G.S. 53-244.030 and does not meet the experience requirements of  
7 G.S. 53-244.050(b)(2)a., the individual may be licensed as an exclusive  
8 mortgage broker upon compliance with all of the following:
- 9 a. Successfully completes the prelicensing education required under  
10 G.S. 53-244.070.
- 11 b. Acts exclusively as a mortgage broker and shall be an agent for a single  
12 mortgage lender or mortgage broker licensee or a single exempt  
13 mortgage lender, ~~who:~~ lender that satisfies all of the following:
- 14 1. Shall be responsible for supervising the ~~broker individual~~ as  
15 required by this Article and in accordance with a plan of  
16 supervision approved by the Commissioner in the  
17 Commissioner's ~~discretion;~~ discretion.
- 18 2. Shall sign the license application of the ~~applicant;~~  
19 and individual.
- 20 3. Shall be jointly and severally liable with the ~~broker individual~~  
21 for any claims arising from the broker's mortgage brokering  
22 activities.
- 23 c. Shall be compensated on a basis that is not dependent upon the interest  
24 rate, fees, or other terms of the loan ~~brokered, provided that this~~  
25 brokered. This sub-subdivision shall does not prohibit compensation  
26 based on the principal balance of the loan.
- 27 d. Shall offer only fixed-term, fixed-rate, fully amortizing mortgage  
28 loans originated by a single mortgage lender with substantially equal  
29 monthly mortgage payments and without a prepayment penalty, unless  
30 the Commissioner ~~shall approve,~~ approves, in the Commissioner's  
31 discretion, the sale of other mortgage loan products for that lender.
- 32 e. Shall not handle borrower or other third-party funds in connection with  
33 the brokering or closing of mortgage loans.
- 34 f. Shall meet the surety bond requirement of a mortgage broker or  
35 otherwise be covered by a surety bond provided by the mortgage  
36 lender or broker licensee or exempt mortgage lender of the lesser of  
37 five million dollars (\$5,000,000) or an amount equal to or greater than  
38 the sum of the surety bond requirements for each exclusive mortgage  
39 broker supervised by the broker or lender.
- 40 (c) In connection with an application for licensing as a mortgage loan originator,  
41 ~~transitional mortgage loan originator,~~ mortgage lender, mortgage broker, or mortgage servicer,  
42 or registration as a registrant, the applicant and its owners, qualifying individual, and ~~controlling~~  
43 control persons shall furnish to the ~~Nationwide Mortgage Licensing System and Registry NMLS~~  
44 information concerning the applicant's identity, including: including all of the following:
- 45 (1) Fingerprints for submission to the Federal Bureau of Investigation and any  
46 governmental agency or entity authorized to receive ~~such this~~ information for  
47 a state, national, and international criminal history background check.
- 48 (2) Personal history and experience in a form prescribed by the ~~Nationwide~~  
49 Mortgage Licensing System and Registry NMLS and the Commissioner to  
50 ~~obtain:~~ obtain both of the following:

- 1 a. Independent credit reports obtained from a consumer reporting agency  
2 described in ~~section 603(p) of the Fair Credit Reporting Act; and~~<sup>15</sup>  
3 U.S.C. § 1681a.
- 4 b. Information related to any administrative, civil, or criminal findings  
5 by any governmental jurisdiction.
- 6 (3) ~~The personal history may be obtained by the Commissioner at any time and~~  
7 ~~the fingerprint information shall be furnished upon the Commissioner's~~  
8 ~~request.~~
- 9 (4) ~~An authorization for the Commissioner to obtain personal history or~~  
10 ~~fingerprint information at any time.~~
- 11 (c1) The Commissioner may, for good cause shown, permit equivalent information in lieu  
12 of the information required by subsection (c) of this section for a control person of an applicant  
13 that is not applying to be licensed as a mortgage loan originator. The Commissioner may request  
14 authorization from the NMLS to obtain the information required by subsection (c) of this section  
15 at any time.
- 16 (d) For the purposes of this section and in order to reduce the points of contact that the  
17 Federal Bureau of Investigation may have to maintain for purposes of the criminal information  
18 required by this section, the Commissioner may use the ~~Nationwide Mortgage Licensing System~~  
19 ~~and Registry~~ NMLS as a channeling agent for requesting information from and distributing  
20 information to the State Bureau of Investigation or any governmental agency.
- 21 (e) For the purposes of this section and in order to reduce the points of contact that the  
22 Commissioner may have to maintain for purposes of the noncriminal information required by  
23 this section, the Commissioner may use the ~~Nationwide Mortgage Licensing System and Registry~~  
24 NMLS as a channeling agent for requesting and distributing information to and from any source  
25 so directed by the Commissioner.
- 26 (f) For purposes of this section, the Commissioner may request and the State Bureau of  
27 Investigation may provide a criminal record check to the Commissioner for any ~~person~~ individual  
28 ~~who (i) has applied for or holds a mortgage lender, mortgage broker, mortgage servicer, mortgage~~  
29 ~~loan originator, or transitional mortgage loan originator license as provided by this section or (ii)~~  
30 ~~has applied for or holds a registration as a registrant under this section.~~ mortgage loan originator  
31 license or is a control person, executive officer, qualifying individual, or branch manager of a  
32 person licensed or registered under this Article. The Commissioner shall provide the State Bureau  
33 of Investigation, along with the request, the fingerprints of the person, any additional information  
34 required by the State Bureau of Investigation, and a form signed by the person consenting to the  
35 check of the criminal record and to the use of the fingerprints and other identifying information  
36 required by the State or national repositories. individual's fingerprints, a signed consent form,  
37 and any additional information required by the State Bureau of Investigation. The person's  
38 individual's fingerprints shall be used by the State Bureau of Investigation for a search of the  
39 State's criminal history record file, records, and the State Bureau of Investigation shall forward a  
40 set of the fingerprints to the Federal Bureau of Investigation for a national criminal history record  
41 check. The State Bureau of Investigation may charge a fee for each person for conducting the  
42 checks of criminal history records the services authorized by this section.
- 43 (g) Except as provided by subsection (h) of this section, persons engaged in the mortgage  
44 business and exempt from licensure pursuant to ~~G.S. 53-244.040(d)(5)~~ G.S. 53-244.040(d)(5),  
45 53-244.040(d)(10), 53-244.040(d)(11), and 53-244.040(d)(12) shall notify the Commissioner in  
46 order to claim and confirm the exemption and to facilitate the referral of consumers that contact  
47 the Commissioner. The Commissioner shall prescribe a form for ~~such a claim of exemption that~~  
48 ~~shall contain:~~ contains all of the following:
- 49 (1) The name of the exempt ~~person;~~ person.
- 50 (2) The basis of the exempt ~~status of the exempt person;~~ status.

- 1 (3) The principal business address and contact information for the exempt ~~person;~~  
2 ~~and person.~~
- 3 (4) ~~The State~~ If applicable, the state or federal regulatory authority responsible  
4 for the exempt person's supervision, examination, or regulation.

5 (h) A ~~State~~ state or federally chartered credit union may claim and confirm an exemption  
6 from this Article by notifying the Administrator of the Credit Union Division of the Department  
7 of Commerce and providing substantially the same information required by subsection (g) of this  
8 section.

9 (i) The Commissioner shall keep all information pursuant to this section privileged, in  
10 accordance with applicable State law and federal guidelines, and the information ~~shall be is~~  
11 confidential and ~~shall not be is not~~ a public record under Chapter 132 of the General Statutes.

12 **"§ 53-244.060. Issuance of license or registration.**

13 If an applicant satisfies the requirements of G.S. 53-244.040 and G.S. 53-244.050, the  
14 Commissioner shall issue a ~~mortgage lender, mortgage broker, mortgage servicer, mortgage loan~~  
15 ~~originator, or transitional mortgage loan originator license, or a mortgage origination support~~  
16 ~~registrant registration, license or registration~~ unless the Commissioner finds any of the following:

- 17 (1) The applicant has had a mortgage loan originator or mortgage lender,  
18 mortgage broker, or mortgage servicer license, or mortgage origination  
19 support registrant registration or its equivalent, revoked in any governmental  
20 jurisdiction, except that a subsequent formal vacation of the revocation ~~shall~~  
21 ~~not be is not~~ deemed a revocation.
- 22 (2) The applicant or its ~~controlling control~~ persons have been convicted of or  
23 plead guilty or nolo contendere to a felony in a domestic, foreign, or military  
24 ~~court;~~ court as described in either of the following:
- 25 a. During the seven-year period preceding the date of the ~~application for~~  
26 ~~licensing and registration; or application.~~
- 27 b. At any time preceding the date of application, if the felony involved  
28 an act of fraud, dishonesty, a breach of trust, or money laundering.  
29 A pardon or expungement of a conviction ~~shall not be is not~~ a conviction for  
30 purposes of this subdivision.
- 31 (3) The applicant or any of its ~~controlling control~~ persons have been convicted of  
32 or plead guilty or nolo contendere to any charge in a domestic, foreign, or  
33 military court, within the past five years, of a misdemeanor involving ~~moral~~  
34 ~~turpitude~~ or any fraud, false statement or omission, any theft or wrongful  
35 taking of property, bribery, perjury, forgery, counterfeiting, extortion, or  
36 conspiracy to commit any of these offenses, or involving any financial service  
37 or financial service-related business.
- 38 (4) The applicant ~~has or its control persons have~~ demonstrated a lack of financial  
39 responsibility, character, or general fitness such as to fail to command the  
40 confidence of the community and to warrant a determination that the ~~mortgage~~  
41 ~~loan originator, transitional mortgage loan originator, or other licensee or~~  
42 ~~registrant applicant~~ will operate honestly, fairly, and efficiently within the  
43 purposes of this Article. For purposes of this subdivision, a person shows a  
44 lack of financial responsibility when the person has shown a disregard in the  
45 management of the person's own financial affairs. Evidence that a person has  
46 not shown financial responsibility may ~~include;~~ include any of the following:
- 47 a. Current outstanding judgments, except judgments resulting solely  
48 from medical ~~expenses;~~ expenses.
- 49 b. Current outstanding tax liens or other government liens and  
50 ~~filings;~~ filings.
- 51 c. Foreclosures within the past three ~~years;~~ or years.

- d. A pattern of serious delinquent accounts within the past three years.
- (5) The mortgage loan originator applicant has failed to complete the preclicensing education requirement described in G.S. 53-244.070.
- (6) The mortgage loan originator applicant has failed to pass a written test that meets the requirements described in G.S. 53-244.080.
- (7) The mortgage lender, mortgage broker, ~~or mortgage servicer~~ servicer, or exclusive mortgage broker applicant has failed to meet the surety bond requirement described in G.S. 53-244.103.
- (8) The mortgage lender, mortgage broker, or mortgage servicer applicant fails to meet the minimum net worth requirement as described in G.S. 53-244.104.
- (9) The applicant's participation in the mortgage ~~business industry~~ will not be in the public interest.

**"§ 53-244.070. Educational requirements for mortgage loan originators.**

(a) ~~In order to~~ To be eligible to apply for a mortgage loan originator license, an individual must shall complete at least 24 hours of preclicensing education approved in accordance with subsection (b) of this section, which shall include: ~~include all of the following:~~

- (1) Three hours of federal ~~law statutes and regulations;~~ regulations.
- (2) Three hours of ethics, including instruction on fraud, consumer protection, and fair lending ~~issues;~~ issues.
- (3) Two hours of training related to lending standards for the nontraditional mortgage products; and product marketplace.
- (4) Four hours of North Carolina ~~laws statutes and regulations.~~ rules.

(b) ~~Preclicensing education courses and the course providers shall be reviewed and approved by the Nationwide Mortgage Licensing System and Registry using reasonable standards consistently applied, subject to the Commissioner's approval of any course of study required by subdivision (a)(4) of this section. Review and approval of a preclicensing education course shall include review and approval of the course provider.~~ NMLS.

(c) ~~Nothing in this section shall preclude~~ precludes any preclicensing education course, approved by the ~~Nationwide Mortgage Licensing System and Registry, NMLS,~~ that is provided by the employer of the applicant or an entity that is affiliated with the applicant by an agency contract, or any subsidiary or affiliate of the employer or entity. applicant's employer or a subsidiary or affiliate of the applicant's employer.

(d) Except as provided in subsection (e) of this section, preclicensing education may be offered only in a classroom or classroom equivalent setting, as approved by the ~~Nationwide Mortgage Licensing System and Registry.~~ NMLS.

(e) ~~An If an individual having successfully completed~~ completes the preclicensing educational requirements in ~~any other state, if another state and the requirements have been approved by the Nationwide Mortgage Licensing System and Registry, NMLS, the applicant shall be given credit for those hours toward the completion of the preclicensing requirements in this State, other than the hours required under subdivision (a)(4) of this section.~~

(f) An individual previously licensed under this Article whose license expires and who requests a late renewal of license pursuant to G.S. 53-244.101 ~~must shall~~ prove that the individual has completed all of the continuing education requirements for the preceding year.

**"§ 53-244.080. Testing requirements for mortgage loan originators.**

(a) An individual ~~must shall~~ pass a qualified written test, as defined by subsection (b) of this section, developed by the Nationwide Mortgage Licensing System and Registry and administered by a test provider approved by the Nationwide Mortgage Licensing System and Registry. In addition, prior to licensure in this State, an individual must take a qualified written test that tests the individual's knowledge and comprehension of North Carolina law and regulation. NMLS.



(b) A written test shall not be treated as a qualified written test unless ~~the test~~ it adequately measures the applicant's knowledge and comprehension in the following subject areas:

(1) ~~Ethics; Ethics.~~

(2) ~~Federal law and regulation~~ statutes and regulations pertaining to mortgage ~~origination; origination.~~

(3) ~~North Carolina law and regulation~~ State statutes and rules pertaining to mortgage ~~origination; and origination.~~

(4) ~~Federal and North Carolina law and regulations~~ State law relating to fraud, consumer protection, the nontraditional mortgage products, product marketplace, and fair lending issues.

(c) Nothing in this section ~~shall prohibit~~ prohibits a test provider approved by the ~~Nationwide Mortgage Licensing System and Registry NMLS~~ from providing a test at the location of the ~~employer of the applicant or the location of any subsidiary or affiliate of the employer of the applicant, applicant's employer, or a subsidiary or affiliate of the applicant's employer, or the location of any entity which person that~~ is licensed by North Carolina to engage in the mortgage lending business.

(d) An applicant shall be considered to have passed a qualified written test ~~provided the applicant achieves by achieving a test score of at least seventy-five percent (75%) correct answers to questions. In addition, an applicant shall not be considered to have passed a qualified written test if the individual did not achieve a test score of at least seventy-five percent (75%) correct answers to questions related to North Carolina law and regulation. (75%).~~

(e) An applicant may retake a test three consecutive times with each consecutive test occurring at least 30 days after the preceding test. After failing three consecutive tests, an applicant ~~must~~ shall wait at least six months before retaking the test. A formerly licensed mortgage loan originator who fails to maintain a valid license for a period of five years or longer ~~must~~ shall retake the test.

#### **"§ 53-244.090. Application fees.**

(a) ~~Every applicant for initial licensure~~ Initial applicants shall pay a nonrefundable filing fee of one thousand two hundred fifty dollars (\$1,250) for licensure as a mortgage broker, mortgage lender, or mortgage servicer, three hundred dollars (\$300.00) for licensure as an exclusive mortgage broker, or one hundred twenty-five dollars (\$125.00) for licensure as a ~~mortgage loan originator or transitional mortgage loan originator.~~

~~Every applicant~~ Initial applicants for ~~initial~~ registration as a mortgage origination support registrant that are engaged exclusively as loan processors or underwriters shall pay a nonrefundable filing fee ~~of based upon the number of individuals they employ as loan processors or underwriters:~~ (i) two hundred fifty dollars (\$250.00) for ~~applicants who employ or contract with fewer than a total of five individuals engaged solely as loan processors or underwriters, fewer than five individuals,~~ (ii) one thousand dollars (\$1,000) for ~~applicants who employ or contract with between a total of five and 30 individuals engaged solely as loan processors or underwriters, between five and 30 individuals, or~~ (iii) two thousand dollars (\$2,000) for ~~applicants who employ or contract with more than a total of 30 individuals engaged solely as loan processors or underwriters.~~ more than 30 individuals.

In addition, every applicant for initial licensure or registration ~~must~~ shall pay the actual cost of obtaining a credit report, ~~State~~ state and national criminal history record checks, and the processing fees required by the ~~Nationwide Mortgage Licensing System and Registry NMLS.~~

(b) ~~Each principal and each branch office of a mortgage broker or mortgage lender licensed under the provisions of this Article shall be issued a separate license for which the Commissioner shall assess a nonrefundable filing fee of three hundred dollars (\$300.00) in addition to the Nationwide Mortgage Licensing System and Registry processing fee. A licensed mortgage broker or mortgage lender shall file with the Commissioner a notice on a form prescribed by the Commissioner that identifies the address of the principal office and each branch~~

office and its designated branch manager. Payment of the license fee under subsection (a) of this section shall be deemed to cover the location license fee for the principal office of each mortgage lender, mortgage broker, or mortgage servicer without payment of an additional three hundred dollars (\$300.00) under this subsection. A licensed mortgage broker or mortgage lender shall register each branch office, including the address and designated branch manager, with the Commissioner through the NMLS. In addition, the mortgage broker or mortgage lender shall pay the actual cost of obtaining a credit report, state and national criminal history record checks, and the processing fees required by the NMLS for the designated branch manager.

**"§ 53-244.100. Active license or registration requirements and assignability.**

(a) It is unlawful for any person to ~~engage~~ be engaged in the mortgage business without first obtaining a license as a ~~mortgage loan originator, transitional mortgage loan originator, mortgage lender, mortgage broker, or mortgage servicer~~ issued by the Commissioner under this Article. It is unlawful for any person to employ, ~~to compensate, or to appoint~~ as its agent an exclusive mortgage broker or a mortgage loan originator unless the person individual is a licensed mortgage loan originator ~~or a transitional mortgage loan originator~~ under this Article. ~~Persons defined in G.S. 53-244.030(8) or G.S. 53-244.030(29) are not subject to this subsection. This subsection does not apply to the exempt persons specified in G.S. 53-244.040(d).~~

(b) The license of a mortgage loan originator ~~or transitional mortgage loan originator~~ is not effective during any period when that person is not employed by (i) ~~a mortgage lender, mortgage broker, mortgage servicer, or mortgage servicer licensed under this Article~~ or (ii) ~~a mortgage origination support registrant licensed or registered under this Article, but only for the purpose of supervising and controlling loan processors or underwriters.~~ Article. When a mortgage loan originator ~~or transitional mortgage loan originator~~ ceases to be employed by a mortgage lender, mortgage broker, ~~or mortgage servicer licensed under this Article, or a servicer, or mortgage origination support registrant registered under this Article, registrant,~~ the mortgage loan originator ~~or transitional mortgage loan originator~~ and the mortgage lender, mortgage broker, ~~or mortgage servicer licensed under this Article, or the servicer, or mortgage origination support registrant registered under this Article, by whom that person was employed~~ shall promptly notify the Commissioner in ~~writing.~~ writing within 30 days. The mortgage lender, mortgage broker, mortgage servicer, or mortgage origination support registrant shall include a statement of the specific reason for the termination of the mortgage loan originator's ~~or transitional mortgage loan originator's~~ employment. A mortgage loan originator or transitional mortgage loan originator shall not be employed simultaneously by more than one mortgage lender, mortgage broker, mortgage servicer, or mortgage origination support registrant licensed or registered under this Article.

(c) Each mortgage lender, mortgage broker, mortgage servicer, and mortgage origination support registrant licensed or registered under this Article shall maintain on file with the Commissioner a list of all mortgage loan originators ~~and transitional mortgage loan originators who are employed with the mortgage lender, mortgage broker, mortgage servicer, or mortgage origination support registrant whom they employ.~~

(d) No person, other than an exempt person, shall hold himself or herself out as a mortgage lender, a mortgage broker, a mortgage servicer, a mortgage loan originator, ~~a transitional mortgage loan originator,~~ or mortgage origination support registrant unless the person is licensed or registered in accordance with this Article.

(e) Licenses and registrations issued under this Article are not assignable. Control of a licensee or registrant shall not be acquired through a stock purchase, merger, or other device without the prior written consent of the Commissioner. The Commissioner shall not give written consent if the Commissioner finds that any of the grounds for denial, revocation, or suspension of a license or registration are applicable to the acquiring person.

**"§ 53-244.100A. Assessments.**

(a) For the purpose of meeting the cost of regulation under this Article, each mortgage lender, mortgage broker, ~~exclusive mortgage broker~~, and mortgage servicer licensed under this Article shall pay ~~into the OCOB~~ an assessment ~~as provided in this subsection to the Commissioner~~. The annual assessment shall consist of a base amount of two thousand dollars (\$2,000) for volumes of no more than one million five hundred thousand dollars (\$1,500,000) plus an additional sum, calculated on the loan and servicing dollar volume reported by the licensee to the ~~OCOB~~ Commissioner for the previous calendar year. If a licensee has both loan and servicing volume, those amounts shall be added together and the assessment shall be calculated from the table below as follows:

Loan and/or Servicing Dollar Volume		Per Thousand
\$1,500,001 to	\$2,500,000	\$0.07
\$2,500,001 to	\$5,000,000	\$0.06
\$5,000,001 to	\$10,000,000	\$0.05
\$10,000,001 to	\$30,000,000	\$0.04
\$30,000,001 to	\$100,000,000	\$0.03
\$100,000,001 to	\$1,300,000,000	\$0.02
More Than \$1,300,000,001		\$0.01

(b) The Commissioner may collect the assessment provided for in subsection (a) of this section annually or in periodic installments as approved by the Banking Commission. In addition, assessments may be reduced as provided by G.S. 53C-8-2.

**"§ 53-244.101. License and registration renewal.**

(a) All licenses and registrations issued by the Commissioner under ~~the provisions of this Article shall expire~~ annually on the 31st day of December following issuance or on any other date that the Commissioner ~~may determine~~ determines. The license or registration is invalid after that date and ~~shall remain~~ remains invalid unless renewed under subsection (b) of this section.

(b) A license or registration may be renewed on or after November 1 of each year by complying with the requirements of subsection (c) of this section.

A mortgage loan originator shall pay a nonrefundable renewal fee of one hundred twenty-five dollars (\$125.00) plus the actual cost of obtaining credit ~~reports and State reports~~, state and national criminal history record ~~checks~~ checks, and processing fees for the ~~Nationwide Mortgage Licensing System and Registry NMLS~~ as the Commissioner ~~shall require~~ requires.

A mortgage origination support registrant that is engaged exclusively in loan processing or underwriting shall pay a nonrefundable renewal fee ~~of based upon the number of individuals it employs in loan processing or underwriting~~: (i) one hundred twenty-five dollars (\$125.00) for registrants who employ or contract with fewer than a total of five individuals engaged solely as loan processors or underwriters, fewer than five individuals, (ii) five hundred dollars (\$500.00) for registrants who employ or contract with between a total of five and 30 individuals engaged solely as loan processors or underwriters, between five and 30 individuals, or (iii) one thousand dollars (\$1,000) for registrants who employ or contract with more than a total of 30 individuals engaged solely as loan processors or underwriters, more than 30 individuals. In addition to the nonrefundable renewal fee, a mortgage support registrant shall pay the actual cost of obtaining credit ~~reports and State reports~~, state and national criminal history record ~~checks~~ checks, and processing fees for the ~~Nationwide Mortgage Licensing System and Registry NMLS~~ as the Commissioner ~~shall require~~ requires.

(c) ~~Licensees may apply to renew a mortgage loan originator, mortgage lender, mortgage broker, and mortgage servicer license, and registrants may apply to renew a mortgage origination support registrant registration. The application~~ A person licensed or registered under this Article may apply for renewal and shall demonstrate that all of the following applicable requirements are met:

- (1) The licensee or registrant continues to meet the initial minimum standards for licensure or registration under G.S. 53-244.060.

(2) The mortgage loan originator has satisfied the annual continuing education requirements described in G.S. 53-244.102.

(3) The licensee or registrant has paid all required fees and assessments.

(d) ~~If~~ In addition to the renewal fees set forth in subsection (b) of this section, a mortgage lender, mortgage broker, ~~exclusive mortgage broker,~~ or mortgage servicer's license is not renewed ~~servicer that does not renew prior to the expiration date, then the licensee~~ date shall pay a nonrefundable late fee of two hundred fifty dollars (\$250.00) as a nonrefundable late fee. If (\$250.00), and a mortgage loan originator's license is not renewed ~~originator who does not renew prior to the expiration date, then the licensee~~ date shall pay a nonrefundable late fee of one hundred dollars (\$100.00) in addition to the renewal fee set forth in subsection (b) of this section. (\$100.00). In the event a licensee fails to obtain a reinstatement of the license prior to March 1, the Commissioner shall require the licensee to comply with the requirements for the initial issuance of a license under ~~the provisions of this Article.~~

(d1) ~~If a mortgage origination support registrant registration is not renewed prior to the expiration date, in~~ In addition to the renewal fees set forth in subsection (b) of this section, the a registrant that is engaged exclusively in loan processing or underwriting and that does not renew prior to the expiration date shall pay a nonrefundable late fee of ~~based upon the number of individuals it employs in loan processing or underwriting: (i) sixty-two dollars and fifty cents (\$62.50) for registrants who employ or contract with fewer than a total of five individuals engaged solely as loan processors or underwriters, for fewer than five individuals, (ii) two hundred fifty dollars (\$250.00) for persons who employ or contract with between a total of five and 30 individuals engaged solely as loan processors or underwriters, between five and 30 individuals, or (iii) five hundred dollars (\$500.00) for persons who employ or contract with more than a total of 30 individuals engaged solely as loan processors or underwriters.~~ more than 30 individuals.

In the event a registrant fails to obtain a reinstatement of the registration prior to March 1, the Commissioner shall require the registrant to comply with the requirements for the initial issuance of a registration under ~~the provisions of this Article.~~

(e) When required by the Commissioner, each ~~person~~ individual shall furnish to the Commissioner the ~~person's individual's~~ consent to a criminal history record check and a set of the person's individual's fingerprints in a form acceptable to the Commissioner or to the Nationwide Mortgage Licensing System and Registry-NMLS. Refusal to consent to a criminal history record check ~~shall constitute~~ constitutes grounds for the Commissioner to deny renewal of the individual's ~~license of the person~~ as well as the license of any other person by whom which the ~~person~~ individual is employed, ~~over which the person has control, or as to which the person individual is the current or proposed qualifying individual or current or proposed branch manager.~~

**"§ 53-244.102. Continuing education for mortgage loan originators.**

(a) A licensed mortgage loan originator shall annually complete at least eight hours of continuing education approved in accordance with subsection (b) of this section, ~~including~~ including all of the following:

(1) ~~Three hours of federal law and regulations;~~ statutes and regulations.

(2) Two hours of ethics, including instruction on fraud, consumer protection, and fair lending ~~issues;~~ issues.

(3) Two hours of training related to lending standards for ~~the nontraditional mortgage products; and~~ product marketplace.

(4) One hour of ~~North Carolina law and regulations.~~ State statutes and rules.

(b) Continuing education courses shall be reviewed and approved by the ~~Nationwide Mortgage Licensing System and Registry-NMLS~~ Nationwide Mortgage Licensing System and Registry-NMLS based upon reasonable standards. ~~Approval of a continuing education course shall include approval of the course provider.~~

(c) ~~Nothing in this section shall preclude any continuing education course, approved by the Nationwide Mortgage Licensing System and Registry, that is provided by the employer of the mortgage loan originator or an entity affiliated with the mortgage loan originator by an agency contract, or any subsidiary or affiliate of such employer or entity. Continuing education may be offered either in a classroom, online, or by any other means approved by the Nationwide Mortgage Licensing System and Registry.~~

(d) ~~A Both of the following apply to a licensed mortgage loan originator:~~

- (1) ~~Except for G.S. 53-244.070(a) and subsection (e) of this section, may receive credit for a continuing education course taken prior to the end of the reinstatement period under G.S. 53-244.101(d); and G.S. 53-244.101(d).~~
- (2) ~~May Shall~~ not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(e) A licensed mortgage loan originator who is an approved instructor of an approved continuing education course may receive credit for the licensed mortgage loan originator's own annual continuing education requirement at the rate of two hours credit for every one hour taught.

(f) ~~A licensee having licensed mortgage loan originator who successfully completed completes the education requirements approved by the Nationwide Mortgage Licensing System and Registry NMLS in subdivisions (a)(1), (a)(2), and (a)(3) of this section for any state shall be accepted as credit toward completion of continuing education requirements in North Carolina.~~

**"§ 53-244.103. Surety bond requirements.**

(a) ~~Except as provided in subsection (a1) of this section, for mortgage loan originators employed by registrants, each mortgage loan originator or transitional mortgage loan originator shall be covered by a surety bond through employment with a licensee mortgage lender or mortgage broker in accordance with this section. The surety bond shall provide coverage for each mortgage loan originator or transitional mortgage loan originator employed by the licensee mortgage lender or mortgage broker in an amount as prescribed by subsection (b) of this section and shall be in a form prescribed by the Commissioner. The Commissioner may adopt rules with respect to the requirements for the surety bonds as needed to accomplish the purposes of the Article.~~

~~(a1) The requirements of subsection (a) of this section shall not apply to a mortgage loan originator or transitional mortgage loan originator employed only by a registrant for the sole purpose of supervising and controlling loan processors or underwriters.~~

(b) ~~Licensees Mortgage lenders, mortgage brokers, exclusive mortgage brokers, and mortgage servicers shall be required to post a surety bond with the Commissioner at application to be subsequently adjusted as follows:~~

- (1) ~~A mortgage broker shall post a minimum surety bond of seventy-five thousand dollars (\$75,000). Provided, however, if a mortgage broker has originated mortgage loans application. The amount shall increase as follows based upon their residential mortgage loan origination and servicing volume in North Carolina in a 12-month period ending December 31 in excess of ten million dollars (\$10,000,000) but less than fifty million dollars (\$50,000,000), then the mortgage broker's minimum bond amount shall be one hundred twenty-five thousand dollars (\$125,000), and if a mortgage broker has originated mortgage loans in North Carolina in a 12-month period ending December 31 of fifty million dollars (\$50,000,000) or more, the mortgage broker's minimum bond shall be two hundred fifty thousand dollars (\$250,000).~~
- (2) ~~A mortgage lender or mortgage servicer shall post a minimum surety bond of one hundred fifty thousand dollars (\$150,000). Provided, however, if a mortgage lender has originated mortgage loans in North Carolina in a 12-month period ending December 31 in excess of ten million dollars~~

~~(\$10,000,000) but less than fifty million dollars (\$50,000,000), then the mortgage lender's minimum bond amount shall be two hundred fifty thousand dollars (\$250,000), and if a mortgage lender has originated mortgage loans in North Carolina in a 12-month period ending December 31 of fifty million dollars (\$50,000,000) or more, then the mortgage lender's minimum bond shall be five hundred thousand dollars (\$500,000). December 31:~~

<u>Application, Origination, or Servicing Volume</u>	<u>Mortgage Broker</u>	<u>Mortgage Lender or Mortgage Servicer</u>
<u>With application</u>	<u>\$75,000</u>	<u>\$150,000</u>
<u>Between \$10,000,000.01 and \$49,999,999.99</u>	<u>\$125,000</u>	<u>\$250,000</u>
<u>\$50,000,000 or more</u>	<u>\$250,000</u>	<u>\$500,000</u>

~~(3)(b1)~~ Any increased surety bond required ~~under subdivision (1) or (2) of this subsection by this section~~ shall be filed with the Commissioner on or before May 31 immediately following the end of the 12-month December 31 period.

(c) The surety bond shall be in a form satisfactory to the Commissioner and shall run to the State for the benefit of any claimants against the ~~licensee mortgage lender, mortgage broker, exclusive mortgage broker, or mortgage servicer~~ to secure the faithful performance of the obligations of the ~~licensee mortgage lender, mortgage broker, exclusive mortgage broker, or mortgage servicer~~ under this Article. The aggregate liability of the surety shall not exceed the principal sum of the bond. A party having a claim against the ~~licensee mortgage lender, mortgage broker, exclusive mortgage broker, or mortgage servicer~~ may bring suit directly on the surety bond, or the Commissioner may bring suit on behalf of any claimants, either in one action or in successive actions. Consumer claims shall be given priority in recovering from the bond. When an action is commenced on a ~~licensee's bond~~, the Commissioner may require the filing of a new bond. In this case, the ~~licensee mortgage lender, mortgage broker, exclusive mortgage broker, or mortgage servicer~~ shall file a replacement bond in the required amount within 30 days. Immediately upon recovery ~~upon any action on the bond bond~~, the ~~licensee mortgage lender, mortgage broker, exclusive mortgage broker, or mortgage servicer~~ shall file a new bond.

(d) In the Commissioner's discretion and upon an annual written request of the ~~licensee, mortgage lender, mortgage broker, exclusive mortgage broker, or mortgage servicer~~, the Commissioner may waive the requirement of the bond ~~for any licensee, if:~~ if all of the following apply to the mortgage lender, mortgage broker, exclusive mortgage broker, or mortgage servicer:

- (1) The licensee has been licensed by the Commissioner for at least three ~~years;~~ years.
- (2) The licensee can demonstrate a net worth, according to the most recent audited ~~financial statement, statement of financial condition~~, at least four times the required bond amount, and the licensee certifies that its net worth will be maintained at or above this level at all times and agrees to notify the Commissioner and to secure an appropriate bond in the event the net worth falls below this ~~level;~~ level.
- (3) The Commissioner believes the licensee has a satisfactory history of resolving complaints from consumers and responding to findings of investigations or examinations by the ~~Commissioner; and Commissioner.~~
- (4) The Commissioner has no reason to believe the licensee will be unable to resolve complaints, respond to examination or investigative findings, or fulfill financial obligations under this Article.

(e) If the Commissioner has waived the bond requirement ~~of a licensee based on subsection (d) of this section~~, the Commissioner may summarily reinstate the bond requirement ~~on any licensee if the Commissioner has reason to believe that the licensee mortgage lender, mortgage broker, exclusive mortgage broker, or mortgage servicer no longer meets the standards in subsection (d) of this section.~~ In this event, the ~~licensee mortgage lender, mortgage broker,~~

exclusive mortgage broker, or mortgage servicer shall submit a bond, as required in subsection (b) of this section, within 30 days. Failure to submit a bond as directed by the Commissioner shall be grounds for summary suspension.

**"§ 53-244.104. Minimum net worth requirements.**

(a) A minimum net worth shall be continuously maintained for licensees in accordance with this section. In the event that the mortgage loan originator ~~or transitional mortgage loan originator~~ is an employee or exclusive agent mortgage broker of a person subject to this Article, the net worth of the person subject to this Article can be used in lieu of the mortgage loan originator's ~~or transitional mortgage loan originator's~~ minimum net worth requirement. The minimum net worth to be maintained for each license is as follows:

(1) ~~If the licensee is a mortgage lender, it~~ A mortgage lender shall maintain a net worth of at least one hundred thousand dollars (\$100,000), including (\$100,000) and evidence of liquidity of one million dollars (\$1,000,000), which (\$1,000,000) that may include a warehouse line of credit of one million dollars (\$1,000,000) or other evidence of funding capacity to conduct mortgage originations as documented by an unqualified audited statement of financial condition.

(2) ~~If the licensee is a mortgage servicer, it~~ A mortgage servicer shall maintain a net worth of at least one hundred thousand dollars (\$100,000), not including monies in any escrow accounts held for others ~~others as documented by an unqualified audited statement of financial condition.~~

(2a) Covered institutions, as defined in G.S. 53-244.141, shall meet the requirements of Part 2 of this Article. Part 2 of this Article does not apply to mortgage servicers that are not covered institutions, as defined in G.S. 53-244.141.

(3) ~~If the licensee is a mortgage broker, it~~ A mortgage broker shall maintain a net worth of at least twenty-five thousand dollars (\$25,000), including evidence of liquidity of ten thousand dollars (\$10,000), as certified by the licensee in a certified statement of financial condition.

(b) The Commissioner may adopt rules to require additional minimum net worth or otherwise amend net worth requirements as ~~are~~ necessary to ensure licensees maintain adequate financial responsibility and to accomplish the purposes of this Article.

**"§ 53-244.105. Records, addresses, escrow funds, or trust accounts.**

(a) ~~Every licensee~~ mortgage lender, mortgage broker, mortgage servicer, or registrant shall make and keep the accounts, correspondence, memoranda, papers, books, and other records as prescribed in rules adopted by the ~~Commissioner~~ Commissioner and shall notify the Commissioner where the records will be stored. All records shall be preserved for three years unless the Commissioner, by rule, prescribes otherwise for particular types of records.

(b) No person shall make any false statement or knowingly and willfully make any omission of a material fact in connection with any ~~information~~ information, communications, or reports filed with the Commissioner, a governmental agency, or the ~~Nationwide Mortgage Licensing System and Registry~~ or in connection with any oral or written communication with the Commissioner or another governmental agency. ~~NMLS.~~ If the information contained in any document filed with the ~~Commissioner~~ Commissioner, another governmental agency, or the Nationwide Mortgage Licensing System and Registry ~~NMLS~~ is or becomes inaccurate or incomplete in any material respect, the licensee, registrant, or exempt ~~entity~~ person shall within 30 days file a correcting amendment to the information contained in the document.

(c) ~~The Commissioner may, by rule, impose terms and conditions under which the records and files of a mortgage lender, mortgage broker, mortgage servicer, or mortgage origination support registrant may be maintained outside of this State. Except for a mortgage origination support~~ Except for a registrant, a principal place of business shall not be located at an

individual's home or residence. A mortgage lender, mortgage broker, ~~or mortgage servicer licensee, or a mortgage origination support registrant, servicer, or registrant~~ shall maintain a record of the principal place of business with the Commissioner and report any change of address of the principal place of business or any branch office within 15 days after the change.

(d) ~~A licensee mortgage lender, mortgage broker, or mortgage servicer~~ shall maintain in a segregated escrow fund or trust account any funds ~~which that come into the licensee's its possession but which that~~ are not ~~the licensee's its~~ property and ~~which the licensee that it is not~~ entitled to retain under the circumstances. The escrow fund or trust account shall be held on deposit in a federally insured ~~financial depository~~ institution. Individual loan applicants' or borrowers' accounts may be aggregated into a common trust fund so long as (i) interests in the common fund can be individually tracked and accounted for and (ii) the common fund is kept separate from and is not commingled with the licensee's own funds.

(e) A mortgage lender, mortgage broker, exclusive mortgage broker, mortgage servicer, registrant, or mortgage loan originator is deemed to comply with this section if it follows the requirements set forth in 16 C.F.R. Part 314. The information security plan shall be maintained as part of the books and records.

**"§ 53-244.106. Display of license.**

~~Each mortgage broker or mortgage lender licensed under this Article shall display, in plain public view, the certificate of licensure issued by the Commissioner in its principal office and in each branch office. Each mortgage loan originator or transitional mortgage loan originator licensed under this Article shall display, in plain public view, in each branch office in which the individual acts as a mortgage loan originator or transitional mortgage loan originator the certificate of licensure issued by the Commissioner.~~

**"§ 53-244.107. Unique identifier shown.**

~~The unique identifier of any mortgage loan originator, transitional mortgage loan originator, or other originator or person engaged in the mortgage business as defined in G.S. 53-244.030(11)~~ G.S. 53-244.030 shall be clearly shown on all residential mortgage loan application forms, solicitations, advertisements, including business cards or Web sites, business cards, websites, other electronic means, and any other documents as established by rule or order of the Commissioner. In addition, mortgage lenders and mortgage brokers shall include a link to NMLS Consumer Access on their websites.

**"§ 53-244.108. Reports.**

~~Each mortgage lender, mortgage broker, mortgage servicer licensee, servicer, or mortgage origination support registrant shall submit to the Commissioner and to the Nationwide Mortgage Licensing System and Registry NMLS reports of condition and any other reports requested by the Commissioner pursuant to G.S. 53-244.115(d). The reports shall be in the form and shall contain any information that the Commissioner or Nationwide Mortgage Licensing System and Registry may require. NMLS requires.~~

**"§ 53-244.109. Mortgage broker and mortgage lender duties.**

~~Any mortgage broker or mortgage lender engaged in the mortgage business as defined by G.S. 53-244.030(11)a., G.S. 53-244.030(11)a. or b., in addition to duties imposed by other statutes or at common law, shall do all of the following:~~

- (1) Safeguard and account for any money handled for the borrower.
- (2) Follow reasonable and lawful instructions from the borrower.
- (3) Act with reasonable skill, care, and diligence.
- (4) Make reasonable efforts to secure a loan that is reasonably advantageous to the borrower considering all the circumstances, including the rates, charges, and repayment terms of the loan.
- (5) Timely and When initial disclosures are made under RESPA, a mortgage broker shall clearly disclose to the borrower material information that may be expected to influence the borrower's decision and is reasonably accessible to



the mortgage ~~broker, including broker~~. This information includes the total compensation the mortgage broker expects to receive from any and all sources in connection with each loan option presented to the ~~borrower, borrower that~~ are reasonably known at that time. This subdivision applies to mortgage ~~brokers only~~.

- (6) Notify before closing each lender of the particulars of each of the other lender's loans if the mortgage broker or mortgage lender knows that more than one mortgage loan will be made by different lenders contemporaneously to a borrower.
- (7) Ensure that any services offered to any applicant shall be available and offered to all similarly situated applicants on an equal basis.
- (8) ~~In transactions where the mortgage broker has the ability to make credit decisions, use~~ Use reasonable means to provide the borrower with prompt credit decisions on its the borrower's residential mortgage loan applications application and, where the credit is denied, to comply fully with the notification requirements of applicable State and federal law.
- (9) Ensure that advertising materials are designed to make customers and potential customers aware that the mortgage broker or mortgage lender does not discriminate on any prohibited basis.
- (10) Represent the borrower's best interest in the course of brokering a residential mortgage loan.
- (11) ~~Have~~ In the course of brokering a residential mortgage loan, have a duty of loyalty to the ~~borrower, which shall include borrower that includes~~ a duty not to compromise a borrower's right or interest in favor of another's right or interest, including a right or interest of the mortgage ~~broker, broker or mortgage lender~~.

**"§ 53-244.110. Mortgage servicer-Licensee duties.**

Any ~~mortgage servicer~~ licensee engaged in the mortgage business as defined by G.S. 53-244.030(11)c., in addition to duties imposed by other statutes or at common law, shall do all of the following:

- (1) Safeguard and account for any money handled for the borrower.
- (2) Follow reasonable and lawful instructions from the borrower.
- (3) Act with reasonable skill, care, and diligence.
- (4) File with the Commissioner a complete, current schedule of the ranges of costs and fees it charges borrowers for its servicing-related activities with its ~~application and renewal application, renewal, and with its any supplemental filings made from time to time, filings~~.
- (5) File with the Commissioner upon request a report in a form and format acceptable to the Commissioner detailing the servicer's activities in this State, ~~including~~ including the following:
  - a. The number of mortgage loans the ~~servicer~~ licensee is servicing.
  - b. The type and characteristics of the loans in this State.
  - c. The number of serviced loans in default, along with a breakdown of 30-, 60-, and 90-day delinquencies.
  - d. Information on loss mitigation activities, including details on workout arrangements undertaken.
  - e. Information on foreclosures commenced in this State.
- (6) At the time a ~~servicer~~ licensee accepts assignment of servicing rights for a mortgage loan, the ~~servicer~~ licensee shall disclose to the borrower ~~all of the following~~:

- a. ~~Any~~any notice required by RESPA or by regulations promulgated thereunder~~adopted under it.~~
- b. ~~A schedule of the ranges and categories of its costs and fees for its servicing-related activities, which shall comply with North Carolina law and which shall not exceed those reported to the Commissioner.~~
- e. ~~A notice in a form and content acceptable to the Commissioner that the servicer is licensed by the Commissioner and that complaints about the servicer may be submitted to the Commissioner.~~
- d. ~~Any notice required by Article 2A, 4, or 10 of Chapter 45 of the General Statutes.~~

- (7) In the event of a delinquency or other act of default on the part of the borrower, the ~~mortgage servicer licensee~~ shall act in good faith to inform the borrower of the facts concerning the loan and the nature and extent of the delinquency or default and, if the borrower replies, to negotiate with the borrower, subject to the mortgage servicer's duties and obligations under the mortgage servicing contract, if any, to attempt a resolution ~~or workout to~~of the delinquency.

**"§ 53-244.111. Prohibited acts.**

In addition to the activities prohibited under other provisions of this Article, it ~~shall be is~~ unlawful for any person in the course of any residential mortgage loan ~~transaction; transaction to~~ do any of the following:

- (1) To misrepresent or conceal the material facts or make false promises likely to influence, persuade, or induce an applicant for a residential mortgage loan or a mortgagor to take a residential mortgage loan, or to pursue a course of misrepresentation through agents or otherwise.
- (2) To improperly refuse to issue a satisfaction of a ~~mortgage~~residential mortgage loan.
- (3) To fail to account for or to deliver to any person any funds, documents, or other thing of value obtained in connection with a residential mortgage loan, including money provided by a borrower for a real estate appraisal or a credit report, ~~which that the mortgage lender, mortgage broker, mortgage servicer, mortgage loan originator, or transitional mortgage loan originator licensee is~~ not entitled to retain under the circumstances.
- (4) To pay, receive, or collect in whole or in part any commission, fee, or other compensation for brokering or servicing a residential mortgage loan in violation of this Article, including a residential mortgage loan brokered or serviced by any unlicensed person other than an exempt person.
- (5) To charge or collect any fee or rate of interest or to ~~make or broker make, broker,~~ or service any residential mortgage loan with terms or conditions or in a manner contrary to ~~the provisions of Chapter 24, 45, or 54 of the General Statutes.~~
- (6) To advertise residential mortgage loans, including rates, margins, discounts, points, fees, commissions, or other material information, including material limitations on ~~the residential mortgage loans~~, unless the person is able to make the residential mortgage loans available to a reasonable number of qualified applicants.
- (7) To fail to disburse funds in accordance with a written commitment or agreement to make a residential mortgage loan.
- (8) To engage in any transaction, practice, or course of business that is not in good faith or fair dealing or that constitutes a fraud upon any person in connection with the ~~brokering or making or servicing of, or purchase or sale of, brokering, making, servicing, purchase, or sale of~~ any residential mortgage loan.

- (9) To fail to pay promptly when due reasonable fees to a licensed appraiser for appraisal services that ~~are~~ meet both of the following:
  - a. Requested from the appraiser in writing by the mortgage ~~broker or mortgage lender or an employee of the mortgage broker or mortgage lender~~; and broker, mortgage lender, or an employee thereof.
  - b. Performed by the appraiser in connection with the origination or closing of a residential mortgage loan for a customer or the customer, mortgage ~~broker~~ broker, or mortgage lender.
- (10) To broker a residential mortgage loan that contains a prepayment penalty if the principal amount of the residential mortgage loan is one hundred fifty thousand dollars (\$150,000) or less or if the residential mortgage loan is a rate spread home loan as defined in G.S. 24-1.1F.
- (11) To improperly influence or attempt to improperly influence the development, reporting, result, or review of a real estate appraisal sought in connection with a residential mortgage loan. Nothing ~~in this subdivision shall be construed to prohibit a mortgage lender, mortgage broker, or mortgage servicer~~ prohibits a licensee from asking the appraiser to do one or more of the following:
  - a. Consider additional appropriate property information.
  - b. Provide further detail, substantiation, or explanation for the appraiser's value conclusion.
  - c. Correct errors in the appraisal report.
- (12) To fail to comply with the mortgage loan servicing transfer, escrow account administration, or borrower inquiry response requirements imposed by sections 6 and 10 of ~~RESPA~~ RESPA, as periodically amended, and regulations adopted ~~thereunder~~ under it.
- (13) To broker a rate spread adjustable rate mortgage loan without disclosing to the borrower the terms and costs associated with a fixed rate loan from the same mortgage lender at the lowest annual percentage rate for which the borrower qualifies.
- (14) To fail to comply with applicable State and federal laws ~~and regulations~~ related to mortgage lending or mortgage servicing.
- (15) To engage in unfair, misleading, or deceptive advertising related to a solicitation for a residential mortgage loan.
- (16) In connection with the brokering or making of a rate spread home loan as defined under G.S. 24-1.1F, no mortgage lender shall provide nor shall any mortgage broker receive any compensation that changes based on the terms of the loan. This subdivision ~~shall~~ does not prohibit compensation based on the principal balance of the loan.
- (17) ~~For a mortgage servicer to~~ To fail to comply with the mortgage servicer's obligations under Article 10 of Chapter 45 of the General Statutes.
- (18) ~~For a mortgage servicer to~~ To fail to provide written notice to a borrower upon taking action to place hazard, homeowner's, or flood insurance on the mortgaged property or to place such the insurance when the person acting as a mortgage servicer knows or has reason to know that the insurance is in effect.
- (19) ~~For a mortgage servicer to~~ To place hazard, homeowner's, or flood insurance on a mortgaged property for an amount that exceeds either the value of the insurable improvements or the last known coverage amount of insurance.
- (20) ~~For a mortgage servicer to~~ To fail to provide to the borrower a refund of unearned premiums paid by a borrower or charged to the borrower for force-placed hazard, homeowner's, or flood insurance placed by a mortgage

- 1 ~~lender or mortgage servicer~~ if the borrower provides reasonable proof that the  
2 borrower has obtained coverage such that the forced placement is no longer  
3 necessary and the property is insured. If the borrower provides reasonable  
4 ~~proof-proof~~, within 12 months of the ~~placement-placement~~, that no lapse in  
5 coverage occurred such that the forced placement was not necessary, the  
6 ~~person acting as a mortgage servicer~~ shall refund the entire premium.
- 7 (21) ~~For a mortgage servicer to~~ To refuse to reinstate a delinquent loan upon a  
8 tender of payment made timely under the contract ~~which that~~ is sufficient in  
9 amount, based upon the last written statement received by the borrower, to  
10 pay all past due amounts, outstanding or overdue charges, and restore the loan  
11 to a nondelinquent status, but this reinstatement shall be available to a  
12 borrower no more than twice in any 24-month period.
- 13 (22) ~~For a person acting as a mortgage servicer to~~ To fail to mail, at least 45 days  
14 before ~~foreclosure-foreclosure, forfeiture, or repossession~~ is initiated, a notice  
15 addressed to the borrower at the borrower's last known address with the  
16 following information:
- 17 a. An itemization of all past due amounts causing the loan to be in  
18 default.
- 19 b. An itemization of any other charges that ~~must~~ shall be paid in order to  
20 bring the loan current.
- 21 c. A statement that the borrower may have options available other than  
22 foreclosure and that the borrower may discuss the options with the  
23 mortgage lender, the mortgage servicer, or a counselor approved by  
24 the U.S. Department of Housing and Urban Development (HUD).
- 25 d. The address, telephone number, and other contact information for the  
26 mortgage lender, the mortgage servicer, or the agent for either of them  
27 ~~who that~~ is authorized to attempt to work with the borrower to avoid  
28 foreclosure.
- 29 e. The name, address, telephone number, and other contact information  
30 for one or more HUD-approved counseling agencies operating to  
31 assist borrowers in North Carolina to avoid foreclosure.
- 32 f. The address, telephone number, and other contact information for the  
33 State Home Foreclosure Prevention Project of the North Carolina  
34 Housing Finance Agency.
- 35 (23) To fail to make all payments from any escrow account held for the borrower  
36 for insurance, taxes, and other charges with respect to the property in a timely  
37 manner so as to ensure that no late penalties are assessed or other negative  
38 consequences result regardless of whether the loan is delinquent, unless there  
39 are not sufficient funds in the account to cover the payments and the mortgage  
40 servicer has a reasonable basis to believe that recovery of the funds will not  
41 be possible.

42 **"§ 53-244.112. Criminal penalties for unlicensed activity.**

43 Engaging in the mortgage business as defined by G.S. 53-244.030(11) or acting as a mortgage  
44 loan originator without a license as required by ~~the provisions of G.S. 53-244.040~~ this Article is  
45 a Class 3 misdemeanor. Each transaction involving unlicensed activity is a separate offense.

46 **"§ 53-244.113. Regulatory authority.**

47 (a) Unless otherwise provided, all actions, hearings, and procedures under this Article  
48 ~~shall be~~ are governed by Article 3A of Chapter 150B of the General Statutes.

49 (b) For purposes of this Article, the Commissioner ~~shall be~~ is deemed to have complied  
50 with the requirements of law concerning service of process upon mailing by certified mail or  
51 depositing with a delivery service authorized by 26 U.S.C. § 7502(f)(2) any notice required or

permitted to a licensee or registrant under this Article, postage or fees prepaid and addressed to the last known address of the licensee or registrant on file with the Commissioner pursuant to G.S. 53-244.105(c). Any person subject to this Article that is not licensed or registered shall be served in accordance with G.S. 150B-38(c).

(c) Upon the issuance of any summary order permitted under this Article, including summary suspensions and cease and desist orders, the Commissioner shall promptly notify the person subject to the order that the order has been entered and the reasons for the order. Within 20 days of receiving notice of the order, the person subject to the order may request in writing a hearing before the Commissioner. Upon receipt of ~~such a~~ the request, the Commissioner shall calendar a hearing within 15 days. If a ~~licensee or registrant~~ person does not request a hearing, the order will remain in effect unless it is modified or vacated by the Commissioner.

**"§ 53-244.114. Licensure and registration authority.**

(a) The Commissioner may, by order, deny, suspend, revoke, or refuse to issue or renew a license or registration ~~of a licensee, registrant, or applicant~~ under this Article, or may restrict or limit the manner in which a licensee, registrant, applicant, or any person who that owns an interest ~~in or in~~, participates in, or engages in the business of a licensee ~~and engages in the mortgage business, or any person who owns an interest in or participates in the business of a~~ registrant ~~and engages in the business of a~~ or registrant, if the Commissioner finds both of the following:

- (1) That the order is in the public ~~interest; and~~ interest.
- (2) That any of the following circumstances apply to the applicant, licensee, registrant, or any partner, member, manager, officer, director, ~~loan originator~~, qualifying individual, or any ~~person~~ individual occupying a similar status or performing similar functions or any person directly or indirectly controlling the applicant, licensee, or ~~registrant. The person:~~ registrant:
  - a. Has filed an application for licensure or registration, report, or other document ~~to with~~ with the Commissioner that, as of its effective date or as of any date after filing, contained any statement that, in light of the circumstances under which it was made, is false or misleading with respect to any material fact.
  - b. ~~Has violated or violated,~~ failed to comply ~~with~~ with, or failed at any time to meet the requirements of any provision of this Article, rule adopted by the Commissioner, or order of the Commissioner.
  - c. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the mortgage business.
  - d. Is the subject of an order of the Commissioner denying or suspending that person's (i) ~~license as a mortgage loan originator, transitional mortgage loan originator, mortgage broker, mortgage lender, or mortgage servicer~~ or (ii) ~~registration as a registrant or its equivalent~~ license, registration, or its equivalent under this Article.
  - e. Is the subject of an order entered within the past five years by the authority of any ~~state~~ state, territory, or federal agency with jurisdiction over the mortgage ~~brokerage, mortgage lending, or mortgage servicing~~ industry.
  - f. ~~Fails at any time to meet the requirements of G.S. 53-244.060, 53-244.070, 53-244.080, 53-244.090, 53-244.100, 53-244.103, or 53-244.104.~~
  - g. Controls or has controlled any mortgage broker, mortgage lender, mortgage servicer, ~~or registrant~~ registrant, or its equivalent ~~who that~~

has been subject to an order or injunction described in sub-subdivision c., d., or e. of this subdivision.

- h. Has been the qualifying individual, branch manager, or mortgage loan originator, or transitional mortgage loan originator of a licensee originator of a mortgage lender, mortgage broker, mortgage servicer, or registrant ~~who that~~ had knowledge of or reasonably should have had knowledge of, or participated in, any activity that resulted in the entry of an order under this Article suspending or withdrawing ~~the a~~ license ~~of a licensee or registration of a registrant issued under this Article.~~
- i. Has failed to respond to inquiries from the Commissioner or the Commissioner's designee regarding any complaints filed against the licensee or registrant ~~which that~~ allege or appear to involve violation of this Article or any law or rule affecting the mortgage lending business.
- j. Has failed to respond to and cooperate fully with notices from the Commissioner or the Commissioner's designee relating to the scheduling and conducting of an examination or investigation under this Article.

(b) In the event the Commissioner has reason to believe that a licensee, registrant, ~~individual,~~ or person subject to this Article may have violated or failed to comply with any provision of this Article, the Commissioner may take either of the following actions:

- (1) Summarily order the licensee, registrant, ~~individual,~~ or person to cease and desist from any harmful activities or violations of this Article.
- (2) Summarily suspend ~~the (i) a license of the licensee under this Article or (ii) the or registration of a registrant issued~~ under this Article.

These summary powers are in addition to the summary suspension procedures authorized by G.S. 150B-3(c).

**"§ 53-244.115. Investigation and examination authority.**

(a) For purposes of initial licensing or registration, renewal, suspension, conditioning, revocation, ~~or termination, or general or specific inquiry,~~ investigation, or examination to determine compliance with this Article, the Commissioner may access, receive, and use any books, accounts, records, files, documents, information, or evidence, including all of the following:

- (1) Criminal, civil, and administrative history information, including nonconviction data.
- (2) Personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in ~~section 603(p) of the Fair Credit Reporting Act,~~ 15 U.S.C. § 1681a.
- (3) Any other documents, information, or evidence the Commissioner deems relevant to the inquiry, investigation, or examination regardless of the location, possession, control, or custody of the documents, information, or evidence.

(b) For purposes of investigating violations or complaints arising under this Article, or for the purposes of examination, the Commissioner may review, investigate, or examine any licensee, registrant, ~~individual,~~ or person subject to this Article as often as necessary in order to carry out the purposes of this Article. The Commissioner may interview the ~~officer, officers,~~ principals, ~~person with control, qualified individual, mortgage loan originators, transitional control persons, qualifying individuals,~~ mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, registrant, ~~individual,~~ or person concerning their business. The Commissioner may direct, subpoena, or order the attendance of and examine under oath all persons whose testimony may be required about the ~~loans or the business~~

1 residential mortgage loans, business, or subject matter of any examination or investigation and  
2 may direct, subpoena, or order the person to produce books, accounts, records, files, and any  
3 other documents the Commissioner deems relevant to the inquiry. The assessment set forth in  
4 G.S. 53-244.100A is for the purpose of meeting the cost of regulation under this Article. Any  
5 investigation or examination that, in the opinion of the ~~Commissioner of Banks, Commissioner,~~  
6 requires extraordinary review, investigation, or special examination ~~shall be~~ is subject to the  
7 actual costs of additional expenses and the hourly rate for the staff's time, to be determined  
8 annually by the Banking Commission.

9 (c) Each licensee, registrant, ~~individual,~~ or person subject to this Article shall make  
10 available to the Commissioner upon request the books and records relating to the operations of  
11 the licensee, registrant, ~~individual,~~ or person. No licensee, registrant, ~~individual,~~ or person subject  
12 to investigation or examination under this section ~~may~~ shall knowingly withhold, abstract,  
13 remove, mutilate, destroy, or secrete any books, records, computer records, or other information.  
14 Each licensee, registrant, ~~individual,~~ or person subject to this Article shall also make available  
15 for interview by the Commissioner the officers, principals, ~~persons with control,~~ qualified control  
16 persons, qualifying individuals, mortgage loan originators, ~~transitional mortgage loan~~  
17 originators, employees, independent contractors, agents, and customers of the licensee,  
18 registrant, ~~individual,~~ or person concerning their business.

19 (d) Each licensee, registrant, ~~individual,~~ or person subject to this Article shall make or  
20 compile ~~such~~ reports or prepare other information ~~as that~~ may be directed or requested by the  
21 Commissioner in order to carry out the purposes of this section, including any of the following:

- 22 (1) Accounting compilations.
- 23 (2) Information lists and data concerning residential mortgage loan transactions  
24 in a format prescribed by the Commissioner.
- 25 (3) Periodic reports, including any of the following:
  - 26 a. ~~Annual Report Questionnaire Report.~~
  - 27 b. Servicer Activity Report.
  - 28 c. Servicer Schedule of the Ranges of Costs and Fees.
  - 29 d. Lender/Servicer Audited ~~Statements~~ Statement of Financial  
30 Condition.
  - 31 e. Broker Certified ~~Statements~~ Statement of Financial Condition.
  - 32 f. Quarterly Loan Origination Reports.
- 33 (4) Any other information deemed necessary to carry out the purposes of this  
34 section.

35 (e) ~~In making~~ conducting any examination or investigation authorized by this Article, the  
36 Commissioner may control access to any documents and records of the licensee, registrant, or  
37 person under examination or investigation. The Commissioner may take possession of the  
38 documents and records or place a person in exclusive charge of the documents and records in the  
39 place where they are usually kept. During the period of control, no ~~individual or~~ person shall  
40 remove or attempt to remove any of the documents and records except pursuant to a court order  
41 or with the consent of the Commissioner. Unless the Commissioner has reasonable grounds to  
42 believe the documents or records of the licensee or registrant have been or are at risk of being  
43 altered or destroyed for purposes of concealing a violation of this Article, the licensee, registrant,  
44 or owner of the documents and records shall have access to the documents or records as necessary  
45 to conduct its ordinary business.

46 (f) In order to carry out the purposes of this section, the Commissioner may do any of  
47 the following:

- 48 (1) Retain attorneys, accountants, or other professionals and ~~specialists~~  
49 specialists, such as examiners, auditors, or investigators to conduct or assist  
50 in the conduct of examinations or investigations.

(2) Enter into agreements or ~~relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, documents, records, information, or evidence obtained under this section.~~ sharing arrangements with other governmental agencies or associations representing governmental agencies and may share otherwise confidential information pursuant to these written agreements, but only to the extent permitted by G.S. 53C-2-7(d). Information shared pursuant to the agreements authorized under this section retains any and all applicable privilege and related confidentiality protections provided by State or federal law.

(3) Use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate the licensee, ~~individual, registrant,~~ or person subject to this Article.

(4) Accept and rely on examination or investigation reports made by other government officials, ~~within or without inside or outside this State.~~

(5) Accept audit reports made by an independent certified public accountant for the licensee, registrant, ~~individual,~~ or person in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of ~~the examination, report of~~ investigation, or other writing of the Commissioner.

(g) In addition to the authority granted by G.S. 53-244.113 and ~~G.S. 53-244.115, G.S. 53-244.116,~~ the Commissioner ~~is authorized to~~ may take action, including summary suspension of the license or registration, if the licensee or registrant fails, within 20 days or a lesser time if specifically requested for good cause, to do any of the following:

(1) Respond to inquiries from the Commissioner or the Commissioner's designee regarding any complaints filed against the licensee or registrant that allege or appear to involve violation of this Article or any law ~~or rule~~ affecting the mortgage lending business.

(2) Respond to and cooperate fully with notices from the Commissioner or the Commissioner's designee relating to the scheduling and conducting of an examination or investigation under this Article.

(3) Consent to a criminal history record check. The refusal ~~shall constitute~~ constitutes grounds for the Commissioner to deny licensure or renewal to the applicant as well as to any ~~entity-person~~ person that meets any of the following criteria:

a. By whom or by which the applicant is employed.

b. Over which the applicant has control.

c. As to which the applicant is the current or proposed qualifying individual or a current or proposed branch manager.

(h) The authority of this section ~~shall remain~~ remains in effect, whether a licensee, registrant, ~~individual,~~ or person subject to this Article acts or claims to act under any licensing or registration law of the State, or claims to act without ~~such~~ this authority.

**"§ 53-244.116. Disciplinary authority.**

(a) The Commissioner may, by ~~order~~ order, do any of the following:

(1) Take any action authorized under G.S. 53-244.113.

(2) Impose a civil penalty upon a licensee, registrant, ~~individual,~~ or person subject to this Article, or upon any partner, officer, director, or other ~~person~~ individual occupying a similar status or performing similar functions on behalf of a licensee, registrant, or other person subject to this Article for any violation of or failure to comply with this Article. The civil penalty shall not exceed



twenty-five thousand dollars (\$25,000) for each violation of or failure to comply with this Article. Each violation of or failure to comply with this Article ~~shall be~~ is a separate and distinct violation.

(3) Impose a civil penalty upon a licensee, registrant, ~~individual~~, or person subject to this Article, or upon any partner, officer, director, or other ~~person~~ individual occupying a similar status or performing similar functions on behalf of a licensee, registrant, or other person subject to this Article for any violation of or failure to comply with any directive or order of the Commissioner. The civil penalty shall not exceed twenty-five thousand dollars (\$25,000) for each violation of or failure to comply with any directive or order of the Commissioner. Each violation of or failure to comply with any directive or order of the Commissioner ~~shall be~~ is a separate and distinct violation.

(4) Require a licensee, registrant, ~~individual~~, or person subject to this Article to disgorge and pay to a borrower or other individual any amounts received by the licensee, registrant, ~~individual~~, or person subject to ~~the~~ this Article, including any employee of the person, to the extent that the amounts were collected in violation of Chapter 24 of the General Statutes or in excess of those allowed by law.

(5) Prohibit licensees or registrants under this Article from engaging in acts and practices in connection with residential mortgage loans that the Commissioner finds to be unfair, deceptive, designed to evade the laws of this State, or that are not in the best interest of the borrowing public.

(b) When a licensee or registrant is accused of any act, omission, or misconduct that would subject the licensee or registrant to disciplinary action, the licensee or registrant, with the consent and approval of the Commissioner, may surrender the license or registration and all the rights and privileges pertaining to it. A person ~~who that~~ surrenders a license ~~shall not be eligible for or submit any application for licensure under this Article during any period specified by the Commissioner, and a person who surrenders a or registration shall not be~~ is not eligible for or and shall not submit any application for licensure or registration under this Article during any period specified by the Commissioner.

(c) The requirements of this Article apply to any person ~~who that~~ seeks to avoid its application by any device, subterfuge, or pretense whatsoever, including structuring a loan in a manner to avoid classification of the loan as a residential mortgage loan.

...

**"§ 53-244.118. Rule-making Rulemaking authority; records.**

(a) The Commissioner may adopt any rules that the Commissioner deems necessary to carry out the provisions of this Article, to provide for the protection of the borrowing public, to prohibit unfair or deceptive practices, to instruct ~~mortgage lenders, mortgage brokers, mortgage servicers, mortgage loan originators, transitional mortgage loan originators, licensees or~~ registrants in interpreting this Article, and to implement and interpret the provisions of G.S. 24-1.1E, 24-1.1F, and 24-10.2 as they apply to licensees and registrants under this Article.

(b) The Commissioner shall keep a list of all applicants for licensure or registration under this Article or claimants of exempt status under G.S. 53-244.050(g) that includes the date of application, name, place of residence, and whether the license, registration, or claim of exempt status was granted or denied.

(c) The Commissioner shall keep a current roster showing the names and places of business of all licensees and registrants that shows their respective mortgage loan originators and ~~transitional mortgage loan originators and~~ a roster of exempt persons required to file a notice under G.S. 53-244.050(g). The roster shall meet all of the following requirements:

(1) Be kept on file in the office of the Commissioner.

(2) Contain information regarding all orders or other actions taken against the licensees, registrants, and other persons.

(3) Be open to public inspection.

**"§ 53-244.119. Commissioner's participation in nationwide registry.**

(a) The Commissioner ~~shall require mortgage loan originators and transitional mortgage loan originators to be licensed and registered through the Nationwide Mortgage Licensing System and Registry. In order to carry out this requirement, the Commissioner is authorized to participate in the Nationwide Mortgage Licensing System and Registry. may participate in the NMLS and may require all persons to be licensed or registered through the NMLS.~~ For this purpose, the Commissioner may establish by rule any requirements as necessary, ~~including~~including any of the following:

(1) Background checks ~~for~~for the following:

- a. Criminal history through fingerprint or other ~~databases;databases.~~
- b. Civil or administrative ~~records;records.~~
- c. Credit ~~history; or~~history.
- d. Any other information as ~~deemed necessary by the Nationwide Mortgage Licensing System and Registry.NMLS.~~

(2) The payment of fees to apply for, renew, or amend licenses and registrations through the Nationwide Mortgage Licensing System and Registry.NMLS.

(3) ~~The setting or resetting as necessary of renewal or reporting dates; and~~Renewal or reporting dates.

(4) Requirements for amending or ~~surrendering~~canceling a license ~~license, registration, or any other activities as the Commissioner deems necessary for participation in the Nationwide Mortgage Licensing System and Registry.NMLS.~~

(b) The Commissioner ~~is authorized to~~may establish relationships or contracts with the ~~Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry.NMLS or its designees~~ to collect and maintain records and process transaction fees or other fees related to licensees, registrants, or other persons subject to this Article.

(c) For the purpose of participating in the ~~Nationwide Mortgage Licensing System and Registry, NMLS,~~ the Commissioner ~~is authorized to~~may waive or modify, in whole or in part, any or all of the requirements of this Article and ~~to~~may establish new requirements as reasonably necessary to participate in the ~~Nationwide Mortgage Licensing System and Registry.NMLS.~~

(d) The Commissioner ~~is authorized to~~may enter into agreements to license the use of the proprietary software owned by the Office of the Commissioner of Banks to banking, mortgage, or financial services supervisory agencies of other states.

(e) Repealed by Session Laws 2012-37, s. 4, effective October 1, 2012.

**"§ 53-244.120. Confidentiality of information.**

(a) Notwithstanding any State law to the contrary, the Commissioner shall report enforcement actions under this Article and may report other relevant information to the ~~Nationwide Mortgage Licensing System and Registry.NMLS.~~

(b) The Commissioner ~~is authorized to~~may enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies and may share otherwise confidential information pursuant to these written agreements.

(c) The requirements of G.S. 53C-2-7 regarding the privacy or confidentiality of any information or material provided under subsections (a) and (b) of this section, and any privilege arising under any other federal or State law with respect to ~~such~~this information or material, ~~shall continue~~continues to apply to the information or material after it has been disclosed to an entity described in subsection (a) or (b) of this section. Information or material held by ~~such an~~

the entity ~~shall not be~~ is not subject to disclosure under any State law governing the disclosure to the public of information held by an officer or agency of the State. The entities described in subsections (a) and (b) of this section may share information and material with all State and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by State or federal law.

(d) Any provision of Chapter 132 of the General Statutes relating to the disclosure of confidential supervisory information or of any information or material described in subsection (a) of this section that is inconsistent with this section ~~shall be~~ is superseded by the requirements of this section.

(e) The confidentiality provisions contained in subsection (c) of this section ~~shall do not~~ apply with respect to the information or material relating to the employment history of and publicly adjudicated disciplinary and enforcement actions against ~~mortgage lenders, mortgage brokers, mortgage servicers, mortgage loan originators, transitional mortgage loan originators, or registrants that are included in the Nationwide Mortgage Licensing System and Registry~~ persons licensed or registered under this Article that are included in the NMLS for access by the public.

**"§ 53-244.121. Review by Banking Commission.**

The Banking Commission may review any rule, ~~regulation~~, order, or act of the Commissioner made pursuant to or with respect to the provisions of this Article, and any person aggrieved by any rule, ~~regulation~~, order, or act may, pursuant to G.S. 53C-2-6, appeal to the Banking Commission for review upon giving 20 days' written notice after the rule, ~~regulation~~, order, or act is adopted or issued. The notice of appeal shall specifically state the grounds for appeal and, in the case of an appeal from a contested case proceeding before the Commissioner, shall set forth in numbered order the assignments of error for review by the Banking Commission. Failure to specify the assignments of error ~~shall constitute~~ constitutes grounds to dismiss the appeal. Failure to comply with the briefing schedule as provided by the Banking Commission ~~shall also constitute~~ constitutes grounds to dismiss the appeal. Notwithstanding any other provision of law, any party aggrieved by a decision of the Banking Commission ~~shall be~~ is entitled to an appeal pursuant to G.S. 53C-2-6.

**"§ 53-244.122. Emergency powers.**

In the event of a natural disaster or other national, regional, State, or local emergency, the Commissioner may temporarily waive or suspend requirements for compliance with this Article.

**"§§ 53-244.123 through 53-244.140.** Reserved for future codification purposes.

"Part 2. Prudential Standards for Mortgage Servicers.

**"§ 53-244.141. Definitions.**

In addition to the definitions in Part 1 of this Article, the following definitions apply in this Part:

- (1) Agency. – Fannie Mae, Freddie Mac, and Ginnie Mae.
- (2) Allowable assets for liquidity. – Those assets that may be used to satisfy the liquidity requirements of this Part, including unrestricted cash and cash equivalents and unencumbered investment grade assets held for sale or trade. This term includes agency MBSs, obligations of GSEs, and U.S. Treasury obligations.
- (3) Board of directors. – The formal body established by a covered institution that is responsible for corporate governance and compliance with this Article.
- (4) Corporate governance. – The structure of the institution and how it is managed including the corporate rules, policies, processes, and practices used to oversee and manage the institution.
- (5) Covered institution. – A mortgage servicer with servicing portfolios of 2,000 or more one- to four-unit residential mortgage loans serviced or subserviced for others, excluding whole loans owned, and loans being "interim" serviced

- 1 prior to sale as of the most recent calendar year end, reported in the NMLS  
2 Mortgage Call Report.
- 3 (6) External audit. – The formal report prepared by an independent certified  
4 public accountant expressing an opinion on whether the financial statements  
5 are presented fairly, in all material aspects, in accordance with the applicable  
6 financial reporting framework, and is inclusive of an evaluation of the  
7 adequacy of a company's internal control structure.
- 8 (7) FHFA. – The Federal Housing Finance Agency.
- 9 (8) Ginnie Mae. – Government National Mortgage Association.
- 10 (9) GSE. – Government-sponsored enterprises, or Federal National Mortgage  
11 Association (Fannie Mae) and Federal Home Loan Mortgage Corporation  
12 (Freddie Mac).
- 13 (10) Interim serviced prior to sale. – The activity of collecting a limited number of  
14 contractual mortgage payments immediately after origination on loans held  
15 for sale but prior to the loans being sold into the secondary market.
- 16 (11) Internal audit. – The internal activity of performing independent, objective  
17 assurance and consulting to evaluate and improve the effectiveness of  
18 company operations, risk management, internal controls and governance  
19 processes.
- 20 (12) Mortgage Call Report. – The quarterly or annual report of residential real  
21 estate loan origination, servicing and financial information completed by  
22 companies licensed in NMLS.
- 23 (13) Mortgage servicing right (MSR). – The contractual right to service residential  
24 mortgage loans on behalf of the owner of the associated mortgage in exchange  
25 for specified compensation in accordance with the servicing contract.
- 26 (14) Mortgage-backed security (MBS). – A financial instrument, often a debt  
27 security, collateralized by residential mortgages.
- 28 (15) MSR investor. – A person that invests in and owns mortgage servicing rights  
29 and relies on subservicers to administer the loans on its behalf. MSR investors  
30 may be referred to as master servicers.
- 31 (16) Operating liquidity. – The funds necessary to perform normal business  
32 operations, such as payment of rent, salaries, interest expense, and other  
33 typical expenses associated with operating the person.
- 34 (17) Residential mortgage loans serviced. – The specific portfolio or portfolios of  
35 residential mortgage loans for which a licensee is contractually responsible to  
36 the owner or owners of the mortgage loans for the defined servicing activities.
- 37 (18) Risk management assessment. – The functional evaluations performed under  
38 the risk management program and reports provided to the board of directors  
39 under the relevant governance protocol.
- 40 (19) Risk management program. – The policies and procedures designed to  
41 identify, measure, monitor, and mitigate risk sufficient for the level of  
42 sophistication of the mortgage servicer.
- 43 (20) "Servicing liquidity" or "liquidity." – The financial resources necessary to  
44 manage liquidity risk arising from servicing functions required in acquiring  
45 and financing MSRs, hedging costs (including margin calls) associated with  
46 the MSR asset and financing facilities, and advances or costs of advance  
47 financing for principal, interest, taxes, insurance, and any other servicing  
48 related advances.
- 49 (21) Subservicer. – The person performing the routine administration of residential  
50 mortgage loans as agent of a mortgage servicer or MSR investor under the  
51 terms of a subservicing contract.

- 1           (22)   Subservicing for others. – The contractual activities performed by  
2               subservicers on behalf of a mortgage servicer or MSR investor.  
3           (23)   Tangible net worth. – Total equity less receivables due from related persons  
4               less goodwill and other intangibles less pledged assets.  
5           (24)   Whole loans. – Those loans where a mortgage and the underlying credit risk  
6               is owned and held on a balance sheet of the person with all ownership rights.

7   **"§ 53-244.142. Applicability and exclusions.**

8       (a)   In addition to the provisions of this Part, all of the provisions in Part 1 of this Article  
9       apply to covered institutions.

10      (b)   The following exclusions apply:

- 11           (1)   This Part does not apply to a covered institution's holding company or affiliate,  
12               unless the holding company or affiliate is also a covered institution.  
13           (2)   This Part does not apply to not-for-profit mortgage servicers or housing  
14               finance agencies.  
15           (3)   G.S. 53-244.143 does not apply to mortgage servicers solely owning or  
16               conducting reverse mortgage servicing, the reverse mortgage portfolio  
17               administered by covered institutions, or the whole loan portion of portfolios.

18   **"§ 53-244.143. Financial condition.**

19      (a)   A covered institution shall maintain capital and liquidity in compliance with this  
20      section.

21      (b)   For the purposes of complying with the capital and liquidity requirements of this  
22      section, all financial data shall be determined in accordance with Generally Accepted Accounting  
23      Principles.

24      (c)   A covered institution that meets the FHFA Eligibility Requirements for Enterprise  
25      Single-Family Seller/Servicers for capital, net worth ratio, and liquidity, regardless of whether  
26      the mortgage servicer is approved for GSE servicing, meets the requirements of subsections (a)  
27      and (b) of this section. Within 15 days of discovering any of the following events, the covered  
28      institution shall do the following:

- 29           (1)   Notify the Commissioner in writing if the covered institution no longer meets  
30               the requirements of this section.  
31           (2)   Provide a copy of any waiver from FHFA to the Commissioner.  
32           (3)   Notify the Commissioner in writing if the FHFA waiver expires or is  
33               rescinded, revoked, canceled, or otherwise removed.

34      (d)   Covered institutions shall maintain written policies and procedures implementing the  
35      capital and servicing liquidity requirements of this section. These policies and procedures shall  
36      include a sustainable written methodology for satisfying the requirements of subsection (c) of  
37      this section and shall be available to the Commissioner upon request.

38      (e)   Covered institutions shall maintain sufficient allowable assets for liquidity, in  
39      addition to the amounts required for servicing liquidity, to cover normal business operations.  
40      Covered institutions shall have in place sound cash management and business operating plans  
41      that match the size and sophistication of the institution to ensure normal business operations.  
42      Management shall develop, establish, and implement plans, policies, and procedures for  
43      maintaining operating liquidity sufficient for the ongoing needs of the institution. These plans,  
44      policies, and procedures shall contain sustainable, written methodologies for maintaining  
45      sufficient operating liquidity and shall be available to the Commissioner upon request.

46   **"§ 53-244.144. Corporate governance.**

47      (a)   Board of Directors Required. – Except as otherwise provided by subsection (b) of this  
48      section, a covered institution shall establish and maintain a board of directors responsible for  
49      oversight of the covered institution.

50      (b)   Alternative to Board of Directors. – For covered institutions that are not approved to  
51      service loans by a GSE or Ginnie Mae, or if these federal agencies have granted approval for a

board alternative, a covered institution may establish a similar body constituted to exercise oversight and fulfill the board of directors' responsibilities in this section.

(c) Board of Directors' Responsibilities. – The board of directors is responsible for all of the following:

- (1) Establishing a written corporate governance framework, including appropriate internal controls designed to monitor corporate governance and assess compliance with the corporate governance framework, available to the Commissioner upon request.
- (2) Monitoring and ensuring institution compliance with the corporate governance framework and this Part.
- (3) Accurate and timely regulatory reporting, including the requirements for filing the Mortgage Call Report.

(d) Internal Audit. – The board of directors shall establish internal audit requirements that are appropriate for the size, complexity, and risk profile of the mortgage servicer, with appropriate independence to provide a reliable evaluation of the mortgage servicer's internal control structure, risk management, and governance. Internal audit requirements and the results of internal audits shall be made available to the Commissioner upon request.

(e) External Audit. – A covered institution shall receive an external audit, including audited financial statements and audit reports conducted by an independent public accountant annually. The external audit shall be available to the Commissioner upon request and include, at a minimum, all of the following:

- (1) Annual financial statements including a balance sheet, statement of operations, income statement, and cash flows, including notes and supplemental schedules prepared in accordance with Generally Accepted Accounting Principles.
- (2) Assessment of the internal control structure.
- (3) Computation of tangible net worth.
- (4) Validation of MSR valuation and reserve methodology, if applicable.
- (5) Verification of adequate fidelity and errors and omissions (E&O) insurance.
- (6) Testing of controls related to risk management activities, including compliance and stress testing, where applicable.

(f) Risk Management. – A covered institution shall establish a risk management program under the oversight of the board of directors and available to the Commissioner upon request that identifies, measures, monitors, and controls risk sufficient for the level of sophistication of the mortgage servicer. The risk management program shall have appropriate processes and models in place to measure, monitor, and mitigate financial risks and changes to the risk profile of the mortgage servicer and assets being serviced. The risk management program shall be scaled to the complexity of the organization but shall be sufficiently robust to manage risks in several areas, including all of the following:

- (1) Credit risk: The potential that a borrower or counterparty will fail to perform on an obligation.
- (2) Liquidity risk: The potential that the mortgage servicer will be unable to meet its obligations as they become due because of an inability to liquidate assets or obtain adequate funding or that it cannot easily unwind or offset specific exposures.
- (3) Operational risk: The risk resulting from inadequate or failed internal processes, people, and systems or from external events.
- (4) Market risk: The risk to the mortgage servicer's condition resulting from adverse movements in market rates or prices.

- 1           (5)   Compliance risk: The risk of regulatory sanctions, fines, penalties, or losses  
2           resulting from failure to comply with laws or other supervisory requirements  
3           applicable to the mortgage servicer.  
4           (6)   Legal risk: The potential that actions against the institution that result in  
5           unenforceable contracts, lawsuits, legal sanctions, or adverse judgments can  
6           disrupt or otherwise negatively affect the operations or condition of the  
7           mortgage servicer.  
8           (7)   Reputation risk: The risk to earnings and capital arising from negative  
9           publicity regarding the mortgage servicer's business practices.  
10        (g)   Risk Management Assessment. – A covered institution shall conduct a risk  
11        management assessment on an annual basis concluding with a formal report to the board of  
12        directors available to the Commissioner upon request. Evidence of risk management activities  
13        throughout the year shall be maintained and made part of the report, including findings of issues  
14        and the response to address those findings."

15           **SECTION 2.** This act becomes effective October 1, 2025.