

# MORTGAGE LOAN ORIGINATOR LICENSURE AND OTHER REQUIREMENTS

## CHAPTER 80-11-5

80-11-5-.01	Mortgage Loan Originator Licensure Requirements.	80-11-5-.05	Administrative Fines.
80-11-5-.02	Books and Records Requirements; Examination	80-11-5-.06	Administrative Actions; Nationwide Mortgage Licensing System and Registry Information Challenges.
80-11-5-.03	Licensed Location.	80-11-5-.07	Information on the Nationwide Mortgage Licensing System and Registry.
80-11-5-.04	Renewals.		

### **80-11-5-.01 Mortgage Loan Originator Licensure Requirements.**

(1) Effective August 1, 2010, a mortgage loan originator may not engage in the business of mortgage loan origination for a licensed residential mortgage broker or lender without first obtaining and maintaining a current Georgia mortgage loan originator's license issued through the National Mortgage Licensing System and Registry (NMLSR).

(2) An applicant for mortgage loan originators license must have a sponsor at and during the time his or her application is being considered for approval or renewal by the Department. Failure to have a sponsor at the time application for licensure is made on the NMLSR or while it is pending shall result in the application being administratively withdrawn by the Department. For purposes of this Rule Chapter, "sponsorship" means the authorization for a properly licensed mortgage loan originator to conduct business as an employee under and on behalf of a specific mortgage broker or mortgage lender's license or registration. Sponsorship must be initiated and maintained by the licensed or registered mortgage broker or mortgage lender employing a mortgage loan originator.

3)(a) As a continuing requirement of licensure, a mortgage loan originator must at all times have proper sponsorship on record with the NMLSR by a licensed or registered Georgia mortgage broker or mortgage lender.

(b) Sponsorship must be applied for and accepted by the Department. Once established, sponsorship can be removed by the employing licensee or registrant. It shall be the responsibility of every mortgage loan originator applicant and licensee to ensure that his or her sponsorship is correctly reflected at all times on the NMLSR.

(4) A mortgage loan originator shall have coverage under the surety bond of his or her licensed or registered mortgage broker or mortgage lender employer.

(5) An applicant for a mortgage loan originator's license will not be approved for licensure if he or she has pleaded guilty to, been found guilty of, or entered a first offender or nolo plea for a felony. A mortgage loan originator license applicant will not be approved for licensure or reinstatement of licensure if he or she has been convicted of a felony in an instance in which a restoration of rights subsequently was issued by a state or federal pardoning authority empowered to dispense this relief.

(6) A mortgage loan originator must immediately surrender his or her license to the Department through the NMLSR once he or she leaves the employ of a licensed broker or lender and begins working as a loan officer for an exempt entity identified in O.C.G.A. § 7-1-1001.

Authority O.C.G.A. § 7-1-1001.1; § 7-1-1002; § 7-1-1003.2; and § 7-1-1004.

### **80-11-5-.02 Books and Records Requirements; Examinations**

(1) The Department may examine the mortgage related books and records of any licensed mortgage loan originator as specified in O.C.G.A. § 7-1-1009.

(2) Any person who is acting as a mortgage loan originator and is required to be licensed shall maintain a journal of mortgage loan transactions, which shall include, at a minimum, the following information:

(a) Full name of proposed borrower and all co-borrowers;

(b) Date the mortgage loan originator took application for the mortgage loan;

(c) Name and the unique identifier or Federal Regulatory Number of the mortgage licensee or registrant sponsoring the loan originator;

(d) Disposition of the mortgage loan application and date of disposition. The journal shall indicate the result of the loan transaction. The disposition of the application shall be categorized as one of the following: loan closed, loan denied, application withdrawn, application in process or other (explanation to be provided);

(e) The journal shall be kept current, updated no less frequently than every seven (7) days. The failure to initiate an entry to the journal within seven (7) business days from the date of the occurrence of the event required to be recorded in the journal shall be deemed a failure to keep the journal current.

(f) Failure to maintain the mortgage loan journal or to keep the journal current (incidental and isolated clerical errors or omissions shall not be considered a violation) may be grounds for suspension or revocation of the license or other appropriate administrative action and will subject the licensee to fines in accordance with regulations prescribed by the department.

(3) All mortgage loan originators who are required to be licensed under Article 13 of Title 7 of the O.C.G.A. and maintain their own surety bond coverage must keep copies of their bonds and also provide copies to their sponsoring/employing mortgage brokers or mortgage lenders.

(4) All books and records and accounts required by this rule shall be maintained by a mortgage loan originator for a period of five (5) years.

Authority O.C.G.A. § 7-1-1009.

### **80-11-5-.03 Licensed Location.**

All licensed mortgage loan originators must maintain an office of record with the Department. If the mortgage loan originator is not domiciled in Georgia, then the main office location of the

sponsoring/employing licensee or registrant shall serve as the official employment address of the loan originator. Those licensed mortgage loan originators domiciled within Georgia must reflect the office from which they are supervised by their employer, either the main office or an approved branch location.

Authority O.C.G.A. § 7-1-1003.

#### **80-11-5-.04 Renewals.**

(1) Mortgage loan originator licenses shall expire on December 31st of each calendar year. A mortgage loan originator must meet the following requirements in order to have his or her license renewed:

(a) A mortgage loan originator must continue to meet the minimum standards for license issuance.

(b) Timely submission of a complete renewal application and corresponding fee.

(c) A loan originator must satisfy the continuing education requirements of O.C.G.A. § 7-1-1004(g). The applicant must obtain on an annual basis eight (8) hours of approved continuing education in mortgage courses from an NMLSR approved provider. Of these eight (8) hours, seven (7) hours must be obtained in course work addressing the subjects identified in O.C.G.A. § 7-1-1004(g)(1), and at least one (1) hour of continuing education must be obtained in coursework addressing the Georgia Residential Mortgage Act, specifically any changes made to the statute and its corresponding regulations.

(d) Courses taken to meet the approved continuing education requirements of the NMLSR for any state shall be accepted as credit towards continuing education requirements in Georgia, with the exception that one (1) hour of the required courses must cover laws and regulations related to Georgia mortgage licensure, not that of another state.

(e) Continuing education credits are only valid in the calendar year in which the courses are taken. Credits earned during November 1 through December 31 will be excluded from consideration for continuing education credit hours earned for the subsequent renewal period. When continuing education hours are obtained by a mortgage loan originator, only credit hours obtained from January 1 to October 31 shall be considered for purposes of meeting the eight (8) hours of continuing education required in the subsequent renewal period.

(f) Upon submitting an application to renew a license, failure to document to the Department's satisfaction proof of completion of eight (8) continuing education hours by October 31 will subject the licensee to a fine. The failure to obtain and document proof of completion of these hours by December 31 with payment of the fine shall result in the expiration of the mortgage loan originator's license without notice or hearing.

(2) A mortgage loan originator whose license has not been active for a period of up to five (5) years shall provide proof of completion of the continuing education requirements for the last year in which the license was held in order to reinstate it. Should reinstatement of an expired license be

sought for a license that has not been active for five (5) consecutive years or more, such reinstatement application will require that the applicant again meet the testing requirements set forth in O.C.G.A. § 7-1-1004 (e) and (f). If a person has worked as a registered loan originator at any time during the lapsed license period, the period of time the registered mortgage loan officer was employed in this capacity shall not count toward the calculation of the time period for the continuing education and testing requirements of this paragraph.

Authority O.C.G.A. §§ 7-1-1004(e)(4); 7-1-1004.2; 7-1-1005.

#### **80-11-5-.05 Administrative Fines.**

(1) The Department establishes the following fines and penalties for violation by mortgage loan originators of the Georgia Residential Mortgage Act (“GRMA”) or its rules. The Department, in its sole discretion, may waive or modify any fine based upon the gravity of the violation, history of previous violations, and such other facts and circumstances as have contributed to the violation.

(2) All fines levied by the Department are due within thirty (30) days from date of assessment and must be paid prior to renewal of the annual license or registration, reinstatement of a license or registration, or reapplication for a license or registration, or any other activity requiring Departmental approval.

(3) All fines collected by the Department shall be paid into the state treasury to the credit of the general fund.

(4) The following fines shall be assessed for violations of GRMA and Department rules:

(a) Dealing with Unlicensed Persons. A mortgage loan originator that purchases, sells, places for processing or transfers (or performs activities which are the equivalent thereof) a mortgage loan or loan application to or from a person who is required to be but is not duly licensed under GRMA shall be subject to a fine of one thousand dollars (\$1,000) per transaction and his or her license shall be subject to suspension or revocation.

(b) Unapproved Location. A mortgage loan originator that operates from a location in Georgia other than a required approved location on record with the Department shall be subject to a fine of five hundred dollars (\$500) per unapproved location operated and his or her license may be subject to revocation or suspension.

(c) Doing Business Without a License or in Violation of Administrative Order. Any person who acts as a mortgage loan originator prior to receiving a current license or registration required under GRMA, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$1,000) per transaction and the mortgage loan originator’s application will be subject to denial or his or her license or registration will be subject to revocation or suspension.

(d) Books and Records Violations. If the Department, in the course of an examination or investigation, finds that a mortgage loan originator licensee or registrant has failed to maintain his or her books and records according to the requirements of Rule 80-11-5-.04, such licensee or registrant

may be subject to a fine of one thousand dollars (\$1,000) for each violation of a books and records found to occur.

(e) Prohibited Acts. Any person who is required to be licensed under O.C.G.A. Title 7, Article 13 as a mortgage loan originator who violates the provisions of O.C.G.A. §7-1-1013 shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation and his or her license shall be subject to suspension or revocation.

(f) Education Requirements. A mortgage loan originator who fails to meet the requirement that he or she timely obtain the type and number of continuing education hours each year as required shall be fined one hundred dollars (\$100).

(g) Advertising. A mortgage loan originator that is required to be licensed who violates the regulations relative to advertising contained in O.C.G.A. §§ 7-1-1004.3 and 7-1-1016 or the advertising requirements of the Department shall be subject to a fine of five hundred dollars (\$500) for each violation of law or rule.

(h) Failure to Submit to Examination or Investigation. The penalty for refusal to permit an investigation or examination of books, accounts and records (after a reasonable request by the Department) shall be revocation of the license or registration and a five thousand dollars (\$5,000) fine. Refusal shall be determined according to Department examination policies and procedures, but shall require at least two attempts to schedule an examination or investigation.

(i) Permitting an unlicensed person to use a licensed mortgage loan originator's license and identity. Any licensed mortgage loan originator who permits an unlicensed person to use that licensee's name, Nationwide Mortgage Licensing System and Registry Number or other identifying information for the purpose of submitting loan documents to lenders shall be subject to a fine of one thousand dollars (\$1,000) per occurrence, and the license of the mortgage loan originator shall be subject to revocation.

Authority O.C.G.A. § 7-1-1018(g).

#### **80-11-5-.06 Administrative Actions; Nationwide Mortgage Licensing System and Registry Information Challenges.**

(1) Final administrative actions taken against mortgage loan originators shall be considered public information and may be disseminated through the Nationwide Mortgage Licensing System and Registry (NMLSR) and by the Department.

(2) A mortgage loan originator may challenge information entered by the Department into the NMLSR. All challenges must be sent to the Department in writing addressed to the attention of the Deputy Commissioner of Non-Depository Financial Institutions. Once received, the Department shall consider the merits of the challenge raised and provide the mortgage loan originator with a written reply that shall be the agency's final decision in response thereto.

Authority O.C.G.A. § 7-1-61; § 7-1-1003.6; § 7-1-1004.2; § 7-1-1012.

**80-11-5-.07 Information on the Nationwide Mortgage Licensing System and Registry.**

(1) It shall be the sole responsibility of each mortgage loan originator applicant and licensee to keep current at all times his or her information on the Nationwide Mortgage Licensing System and Registry ("NMLSR"), including, but not limited to, his or her employment history, e-mail address, telephone numbers, facsimile number, and residential history. Amendments to any contact information on file with the NMLSR must be made by the applicant or licensee within ten (10) business days of the date of the event necessitating the change. The Department shall have no responsibility for any communication not received by an applicant or licensee due to his or her failure to maintain current contact information on the Nationwide Mortgage Licensing System and Registry as required.

(2) Amendments to any responses to disclosure questions on a mortgage loan originator applicant or licensee's NMLSR MU-4 must be made within ten (10) business days following the date of the event necessitating the change. Failure by an applicant for a mortgage loan originator's license to timely update the applicant's MU-4 may result in the denial or administrative withdrawal of his or her license application. In the case of a licensed mortgage loan originator, failure to timely update any disclosure information on the NMLSR MU-4 may result in the revocation of his or her license.

Authority: O.C.G.A. §§ 7-1-61, 7-1-1003, and 7-1-1004.