

# STATE OF GEORGIA DEPARTMENT OF BANKING AND FINANCE



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*BRIAN KEMP  
GOVERNOR*

*KEVIN HAGLER  
COMMISSIONER*

*SPECIAL EDITION  
IMPORTANT NOTICE  
PROPOSED RULEMAKING*

**August 26, 2025**

**NOTICE OF PROPOSED RULEMAKING  
AND  
OPPORTUNITY TO COMMENT**

**PROPOSED ENACTMENT OF RULES AND REGULATIONS  
BY  
DEPARTMENT OF BANKING AND FINANCE  
STATE OF GEORGIA**

To all interested persons:

Pursuant to the provisions of the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-1 et seq., and by the authority of O.C.G.A. §§ 7-1-61, 7-1-690, 7-1-1012, 7-1-1109, 7-3-51, 7-9-13, 7-10-11, and other cited statutes, the Department of Banking and Finance hereby gives notice of its intent to adopt new rules.

A synopsis and purpose precedes the proposed rules.

Comments to the Department of Banking and Finance must be received by the close of business on **Monday, September 29, 2025**. Please send all comments to:

Amy L. Patterson, Deputy General Counsel  
Georgia Department of Banking and Finance  
2990 Brandywine Road, Suite 200  
Atlanta, GA 30341-5565  
Email: [apatterson@dbf.state.ga.us](mailto:apatterson@dbf.state.ga.us)

The Department shall review all comments, may contact commenters to discuss their suggestions, and, after the comment period has closed, intends on promulgating final rules. The Department will consider the proposed new rules for adoption at a meeting **at 10:00 a.m. on Thursday, October 2, 2025**, at the offices of the Department of Banking and Finance at Suite 200, 2990 Brandywine Road, Atlanta, Georgia 30341. Notice and a copy of the final rules adopted will be e-mailed to individuals who have made a special request and will be made available on our website at <http://dbf.georgia.gov>. Other interested parties may receive a copy of the final rules by contacting the Department at (770) 986-1633, after **Thursday, October 2, 2025**.

## **2025 Rules and Regulations**

### **Proposed Changes: Synopsis, Purpose and Background**

#### **80-1-10-.02 Purchase of Real Estate for Future Expansion; Letter Notification**

The proposed amendment clarifies that if a bank does not satisfy the notification requirements, then the bank may purchase real property only with the prior written approval of the Department. The proposed amendment also clarifies that, in the event a bank qualifies for the notification process, the bank must send a letter notification no later than 30 days after the purchase of the property.

#### **80-2-4-.04 Purchase of Real Estate for Future Expansion; Letter Notification**

The proposed amendment clarifies that if a credit union does not satisfy the notification requirements, then the credit union may only purchase real property with the prior written approval of the Department so long as the credit union demonstrates that it will utilize the property as credit union premises within 5 years and indicates the purpose for which the property is purchased. The proposed amendment also clarifies that the Department's approval of a purchase transaction is not approval of the future credit union premises or any other expansion. Finally, the proposed amendment clarifies that, in the event the credit union qualifies for a notification process, the credit union must send a letter notification no later than 30 days after the purchase of the property.

#### **80-2-6-.01 Audits**

The proposed amendment increases the asset threshold under which credit unions may request to have the annual audit conducted by internal auditors from a sponsoring group, concern, or association from \$15 million to \$20 million. The proposed amendment also provides that, in evaluating the request, the Department shall, among other items, consider the credit union's net worth adequacy, any material findings in the most recent audits and reports of examination, the condition of the credit union, and adequacy of internal controls. Finally, the proposed amendment limits any approval of such request to the fiscal year that is the subject of the request.

#### **80-5-1-.02 License and Supervision Fees for Check Cashers, Money Transmitters, Representative Offices, Mortgage Lenders, Mortgage Brokers, Mortgage Loan Originators, Installment Lenders, and Litigation Financiers; Due Dates**

The proposed amendment provides that litigation financing registrants shall pay an initial registration fee of \$2,000.

#### **80-12-2-.10 Approval of Executive Officers, Directors, Principal Shareholders, and Control Persons of MALPB Applicant and Proposed Holding Company of Applicant**

The proposed amendment clarifies that the Department's review of the holding company of an MALPB is not limited to an intermediate holding company.

### **80-12-11-.02 Change in Director, Executive Officer, Principal Shareholder, or Control Person of Holding Company**

The proposed amendment provides that a non-public holding company of an MALPB can make a written request to the Department to waive or modify the change in control requirements of paragraphs (1) and (2) of the Rule. The proposed amendment requires that such request shall set forth in detail the reasons for the request. The proposed amendment further provides certain factors that the Department shall consider. Finally, the proposed amendment provides that approval of such request is at the Commissioner's sole discretion.

### **80-15-1-.01 Verification of Lawful Presence**

The proposed rule requires that litigation financing registrants provide an affidavit verifying the lawful presence of the registrant, as required by O.C.G.A. § 50-36-1. The proposed rule further provides that, in the event the affiant is no longer affiliated with the registrant, the registrant must notify the Department and provide an updated affidavit.

### **80-15-1-.02 Nationwide Multistate Licensing System and Registry**

The proposed rule provides that all applications for registration of a litigation financier shall be made through the Nationwide Multistate Licensing System and Registry ("NMLS"). The proposed rule further provides that it shall be the sole responsibility of applicants and registrants to update information in NMLS, including requiring amendments to information, registration, and responses to disclosure questions within ten business days of the event necessitating the change. Additionally, the proposed rule provides that it is the responsibility of each applicant and registrant to ensure that its directors, officers, partners, and owners keep all information current and make updates within ten business days of the event necessitating the change. The proposed rule further provides that failure to update information on NMLS may result in the imposition of an administrative fine. Finally, the proposed rule provides that a registrant may challenge information entered by the Department in NMLS.

### **80-15-1-.03 Administrative Fines**

The proposed rule establishes administrative fines for any person required to be registered as a litigation financier. The proposed rule provides that any fines levied are due within thirty days and that the recipient of the fine may be subject to additional administrative action. Finally, the proposed rule establishes fines and penalties for violation of the laws and rules, including a fine of \$1,000 per day for operating without a proper registration; a \$5,000 fine for hiring or retaining a director, officer, partner, or owner who is a felon; a \$1,000 fine for failing to disclose that a verification of lawful presence affiant is no longer affiliated with the registrant; a fine of \$1,000 per day for failing to provide a new verification of lawful presence affidavit; and a \$1,000 fine for the failure of the registrant or for any director, officer, partner, or owner of the registrant to timely update NMLS.

## CHAPTER 80-1

### BANKS

#### SUBJECT 80-1-10

#### RECORDS RETENTION

80-1-10-.02 Purchase of Real Estate for Future Expansion; Letter Notification

#### Rule 80-1-10-.02 Purchase of Real Estate for Future Expansion; Letter Notification

- (1) Except as otherwise provided in this Rule, a bank may purchase real property for expansion purposes only with the prior written approval of the Department.
- ~~(3)~~ Where consent Department is required, it approval shall be granted only in those cases where the applicant bank provides reasonable assurance that it plans to utilize the property as bank premises within five (5) years from the date of purchase and indicates the purpose for which the property is being acquired.
- ~~(5)~~ The granting of approval to purchase property for future expansion shall in no way be considered as approving any future bank premises or the expansion program.
- ~~(4)~~ The purchase of real property for expansion purposes may be made without the prior consent approval of the Department ~~of Banking and Finance~~ and by only a letter notification when:
  - (a) The real property is to be utilized as bank premises within five years of the date of purchase;
  - (b) The purchase of the real property does not result in the bank exceeding the fixed asset limitation;
  - (c) The bank is not subject to any special requirements whereby the Department requires prior approval for such purchases; and
  - (d) If an insider is involved, a certification is provided stating that all requirements of O.C.G.A. § 7-1-492 and the provisions of the Federal Reserve Board known as Regulation O have been met.
- ~~(25)~~ The letter notification shall be received by the Department no later than thirty (30) days after the purchase of the property and shall state the date of purchase, purchase price, location of the property, and why the bank qualifies for letter notification under the provisions of this rule.

~~(3) Where consent is required, it shall be granted only in those cases where the applicant bank provides reasonable assurance that it plans to utilize the property as bank premises within five (5) years from the date of purchase and indicates the purpose for which the property is being acquired.~~

(46) The Whether the bank received prior written approval or provided timely written notification of the purchase, the ability to hold property for future expansion shall expire five (5) years from the date of purchase unless the property is utilized as bank premises prior to that time. Banks holding property beyond the five year period must divest themselves of the property through sale unless the time limitation is extended by the Department ~~of Banking and Finance.~~

~~(5) The granting of approval to purchase property for future expansion shall in no way be considered as approving the expansion program.~~

Authority: Ga. L. 1974, pp. 733, 789.O.C.G.A. §§ 7-1-61; 7-1-262.

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## CHAPTER 80-2

### CREDIT UNIONS

#### SUBJECT 80-2-4

#### INVESTMENT OF CREDIT UNION FUNDS

80-2-4-.04 Purchase of Real Estate for Future Expansion; Letter Notification

#### **Rule 80-2-4-.04 Purchase of Real Estate for Future Expansion; Letter Notification**

- (1) Except as otherwise provided in this Rule, a credit union may purchase real property for expansion purposes only with the prior written approval of the Department.
- (2) Department approval shall be granted only in those cases where the applicant credit union provides reasonable assurance that it plans to utilize the property as credit union premises within five (5) years from the date of purchase and indicates the purpose for which the property is being acquired.
- (3) The granting of approval to purchase property for future expansion shall in no way be considered as approving any future credit union premises or the expansion program.
- (4) The purchase of real estate solely for expansion purposes may be made without the prior ~~approval~~consent of the Department and by only a letter notification when:

- (a) The real property is to be utilized solely as the premises of a credit union or its wholly owned subsidiary within five years of the date of purchase;
  - (b) The purchase of the real property does not result in the credit union exceeding the fixed asset limitation;
  - (c) The credit union is not subject to any special requirements whereby the Department requires prior approval for such purchases; and
  - (d) If a director, officer, or committee member is a party to the transaction, a certification is provided stating that all requirements of O.C.G.A. § 7-1-656 and the provisions of any applicable federal requirement have been satisfied.
- (52) The letter notification shall be received by the Department no later than thirty (30) days after the purchase of the property and shall state the date of purchase, purchase price, location of the property, and why the credit union qualifies for letter notification under the provisions of this rule.
- (63) Whether the credit union received prior written approval or provided timely written notification of the purchase, ~~T~~he ability to hold property for future expansion shall expire five (5) years from the date of purchase unless the property is utilized as credit union premises prior to that time. Credit unions holding property beyond the five-year period must divest themselves of the property through sale unless the time limitation is extended by the Department.

Authority: O.C.G.A. §§ 7-1-61; 7-1-650; 7-1-663.

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## SUBJECT 80-2-6

### SUPERVISORY AUDITS

80-2-6-.01 Audits

#### Rule 80-2-6-.01 Audits

- (1) Every Audit Committee shall have an annual audit of the credit union performed, which must be comprehensive in scope covering the period elapsed since the last annual audit, and submit a summary of the audit results at the next annual meeting of the members of the credit union.
- (2) The annual audit must be performed by a licensed independent accountant or firm of accountants. However, if the credit union has assets of less than ~~\$15~~20 million, the Audit Committee may elect to have the annual audit conducted by the internal auditors of any

sponsoring group, concern, or association of credit unions approved in advance by the Department in writing. In evaluating such request, the Department shall, among other items, take into consideration the credit union's net worth adequacy, any material findings in the most recent audits and reports of examination, condition of the credit union, and adequacy of internal controls. Any such approval from the Department shall be limited to the specific fiscal year that is the subject of the request.

- (3)
  - (a) Audit reports in which a licensed independent accountant expresses an unqualified opinion shall be provided to the Department upon request. All other audit reports in which a licensed independent accountant expresses anything other than an unqualified opinion, including, but not limited to, a qualified opinion, an adverse opinion, or a disclaimer of opinion, shall be provided to the Department within fifteen (15) days following receipt by the financial institution. All audit reports generated by anyone besides a licensed independent accountant in accordance with Paragraph 2 of this rule, shall be provided to the Department within fifteen (15) days following receipt by the financial institution. Audit reports submitted to the Department shall be accompanied by the Letter to Management, if applicable, detailing any reportable conditions discovered during the audit engagement.
  - (b) Failure to obtain the required audit, or the auditor's report thereof, shall be reported to the Department within fifteen (15) days of discovery.
  - (c) The engagement letter should clearly define the extent of the audit work including, the scope of the audit, the objectives, the resource requirements, the audit timeframes, and the resulting reports, as well as detail the methods utilized by the auditor to handle and protect member information. The credit union shall provide the Department with a copy of the engagement letter at the same time the audit report is provided to the Department.
  - (d) The auditor shall also provide the Department with a copy of the audit as well as the engagement letter at the request of the Department.
- (4) If the audit is conducted by a licensed independent accountant or firm of accountants, the individual or firm is responsible for the preparation and maintenance of any work papers used to support the findings and conclusions in the audit. Conversely, if the audit is conducted by the internal auditors of any sponsoring group, concern, or association of credit unions, the Audit Committee shall be responsible for the preparation and maintenance of any work papers used to support the finding and conclusions in the audit. Under either scenario, the work papers shall be subject to review by the Department and must be made available to the Department upon request.
- (5) In the event the Department determines that an audit is deficient, the Department may require the credit union to immediately obtain a new annual audit performed on terms and by an individual acceptable to the Department.

- (6) At frequent intervals, but under no circumstances less than annually, the Audit Committee shall also make, or cause to be made, an inspection of the assets and liabilities of the credit union, the credit union's loan and deposit accounts, and the credit union's information technology. The Audit Committee shall also have supplementary audits performed upon request of the Department.
- (7) At frequent intervals, but under no circumstances less than annually, the Audit Committee shall make, or cause to be made, a physical cash count.

Authority: O.C.G.A. §§ 7-1-61; 7-1-657.

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## CHAPTER 80-5

### FINANCIAL INSTITUTIONS

#### SUBJECT 80-5-1

#### SUPERVISION, EXAMINATION, REGISTRATION AND INVESTIGATION FEES AND ADMINISTRATIVE LATE FEES

80-5-1-.02 License and Supervision Fees for Check Cashers, Money Transmitters, Representative Offices, Mortgage Lenders, Mortgage Brokers, Mortgage Loan Originators, ~~and~~ Installment Lenders, and Litigation Financiers; Due Dates

**Rule 80-5-1-.02 License and Supervision Fees for Check Cashers, Money Transmitters, Representative Offices, Mortgage Lenders, Mortgage Brokers, Mortgage Loan Originators, ~~and~~ Installment Lenders, and Litigation Financiers; Due Dates**

- (1) Money transmitters.
  - (a) The annual license fee is one thousand nine hundred dollars (\$1,900) for money transmitters.
  - (b) The annual renewal license fee is one thousand nine hundred dollars (\$1,900) money transmitters and shall be due and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual license renewal fee is not received by the Department on or before December 1 may be assessed a late fine of three hundred dollars (\$300) and cannot be assured of renewal of its license prior to January 1.
  - (c) An additional non-refundable application investigation fee of two hundred fifty dollars (\$250) will be assessed.
  - (d) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-1-688 shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars (\$500).
- (2) Check Cashers.

- (a) The annual license fee is three hundred dollars (\$300).
  - (b) The annual renewal license fee is three hundred dollars (\$300).
  - (c) An initial investigation and supervision fee shall be five hundred fifty dollars (\$550) for the first year. It is not refundable, but if the license is granted it shall satisfy the annual fee for the first license period.
  - (d) Initial and renewal license fees shall also include an additional thirty dollars (\$30) for the second and each additional location, plus a fee in an amount as directed by the Department to cover the cost of the required number of fingerprints for each individual background check.
  - (e) Annual renewal license fees shall be due and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual renewal license fee is not received by the Department on or before the first day of December of each year may be assessed a late fine of three hundred dollars (\$300) and cannot be assured of renewal of its license prior to January 1.
  - (f) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-1-705.1 shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars (\$500).
- (3) Registrants of Georgia state representative offices as defined in O.C.G.A. § 7-1-1100 shall pay an annual registration fee of one thousand dollars (\$1,000).
- (4) Mortgage licensees.
- (a) Lenders. The initial and renewal application and license fee for mortgage lenders shall be nine hundred dollars (\$900). The initial fee of nine hundred dollars (\$900) covers the main office. Any branch offices included in the initial application shall be assessed a fee of three hundred thirty dollars (\$330) each. A fee of three hundred thirty dollars (\$330) will be assessed for each additional office not initially registered, if such office is located in Georgia, and if mortgage lending activity is conducted at the office. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and license fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars (\$300). A renewal application and license fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.
  - (b) Brokers. The initial and renewal application and license fee for mortgage brokers shall be four hundred dollars (\$400). The initial four hundred dollar (\$400) fee covers the main office. Any branch offices located in Georgia shall be assessed a fee of three hundred thirty dollars (\$330) each. Brokers include loan processors. Processors are defined in Rule 80-11-4-.07. Such a processor may have a separate main office and

other branch offices where mortgage loan processing is done. The offices will be treated the same as brokers' offices. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and license fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars (\$300). A renewal application and license fee that is not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

- (c) Mortgage Loan Originators. The initial and renewal application and license fee for mortgage loan originators shall be two hundred dollars (\$200). Subsequent renewal application fees must be received by the Department on or before December 1 of each year or the applicant may be assessed a late fine of two hundred dollars (\$200). A renewal application is not deemed received until all required information, including a renewal fee in the appropriate amount and documentation showing that the requisite continuing education hours have been obtained, has been provided by the licensee. A renewal application, containing all of the required information along with the correct fees and proof of required continuing education that is not received by the Department on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct mortgage loan origination activity without a current license.
  - (d) All late fees collected by the Department, net of the cost of recovery, which cost shall include any cost of hearing and discovery in preparation for hearing, shall be paid into the state treasury to the credit of the general fund or may be paid as provided in O.C.G.A. § 7-1-1018(e).
  - (e) Applicants for approval to acquire directly or indirectly ten percent (10%) or more of the voting shares of a corporation or ten percent (10%) or more of the ownership of any other entity licensed to conduct business as a mortgage lender and/or a mortgage broker under O.C.G.A. Article 13 (otherwise called change of control) shall pay a nonrefundable investigation, application and processing fee of five hundred dollars (\$500).
  - (f) Application for an additional office of a licensee shall be accompanied by a nonrefundable fee of three hundred thirty dollars (\$330), as provided in O.C.G.A. § 7-1-1006.
- (5) Installment Lenders.
- (a) The annual license fee is five hundred dollars (\$500).
  - (b) The annual license renewal fee is five hundred dollars (\$500) and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual license renewal fee is not received by the Department on or before December 1 may be assessed a late fine of three hundred dollars (\$300) and cannot be assured of renewal of its license prior to January 1.

- (c) An additional nonrefundable initial application investigation fee of two hundred fifty dollars (\$250) will be assessed.
- (d) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-3-32 shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars (\$500).
- (e) An application for an additional location of a licensee shall be accompanied by a nonrefundable fee of three hundred dollars (\$300). An annual renewal fee of three hundred dollars (\$300) per each approved additional location shall be due and must be received by the Department on or before the first day of December of each year.

(6) Litigation Financing registrants as defined in O.C.G.A. § 7-10-1 shall pay an initial registration fee of two thousand dollars (\$2,000).

~~(76)~~ The Department may discount or surcharge all supervision or license fees herein provided to assure funding of annual appropriations by the General Assembly.

~~(87)~~ Any fees or charges imposed by the Nationwide Multistate Licensing System and Registry ("NMLSR") shall be independent of any fees charged by the Department. Applicants, licensees, and registrants will be responsible for any and all fees or charges imposed by NMLSR.

~~(98)~~ All license, investigation, and supervision fees, late fees, fines, taxes owed to the Department, and assessed civil penalties must be paid prior to renewal, reinstatement, or reapplication for a license or any other approval from the Department.

Authority: O.C.G.A. §§ 7-1-41, 7-1-61, 7-1-683, 7-1-685, 7-1-702, 7-1-704, 7-1-716, 7-1-721, 7-1-1004, 7-1-1005, 7-3-20, 7-3-32, 7-10-2.

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## CHAPTER 80-12

### MERCHANT ACQUIRER LIMITED PURPOSE BANKS

#### SUBJECT 80-12-2

#### APPLICATION PROCESS

80-12-2-.10 Approval of Executive Officers, Directors, Principal Shareholders, and Control Persons of MALPB Applicant and Proposed Holding Company of Applicant

#### **Rule 80-12-2-.10 Approval of Executive Officers, Directors, Principal Shareholders, and Control Persons of MALPB Applicant and Proposed Holding Company of Applicant**

- (1) As part of the MALPB charter application process, the Department must approve the ownership and/or control of the applicant and the character and fitness of the directors and proposed executive officers, which includes, but is not limited to, the required positions of chief executive officer, chief information officer, and chief risk officer of the applicant. In

order to make these determinations, the executive officers, directors, principal shareholders, and control persons of the MALPB will provide the Department any information or documents requested by the Department including, but not limited to: an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. Section 1681a(f); any information necessary for submission to the Federal Bureau of Investigation, the Georgia Crime Information Center, and/or any other government agency or entity authorized to receive such information in order to perform a criminal history background check along with the applicable fees and any other required information in order that the Department may obtain the results of such criminal background checks; personal financial statements; and filed state, federal, and, if applicable, international income tax returns, including any amendments, for the previous two completed taxable years.

- (2) As part of the MALPB charter application process, the Department must approve the ownership and/or control of the holding company and the character and fitness of the directors and proposed executive officers of the holding company. In order to make these determinations, the principal shareholders, executive officers, directors, and control persons of the ~~MALPB's~~ holding company, if any, will provide the Department any information or documents requested by the Department including, but not limited to, an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. Section 1681a(f).
- (3) The requirements of Paragraph 2 of this Rule shall not apply to the principal shareholders, executive officers, directors, and control persons of a holding company that is a public company.

Authority: O.C.G.A. §§ 7-9-3, 7-9-6, 7-9-7, 7-9-13.

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## SUBJECT 80-12-11

### HOLDING COMPANY

80-12-11-.02 Change in Director, Executive Officer, Principal Shareholder, or Control Person of Holding Company

#### **Rule 80-12-11-.02 Change in Director, Executive Officer, Principal Shareholder, or Control Person of Holding Company**

- (1) The Department must approve in writing any new director, executive officer, principal shareholder, or control person of the holding company, prior to any such appointment or change taking effect, for the purpose of considering the character and fitness of such person. In order to make these determinations, such persons will provide the Department any information or documents requested by the Department including, but not limited to, an

independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. Section 1681a(f).

- (2) The Department shall be given at least sixty (60) days written notice prior to the proposed appointment or change of director, executive officer, principal shareholder, or control person taking effect. If the Department does not issue a notice disapproving the proposed director, executive officer, principal shareholder, or control person within sixty (60) days of receipt of the required written notice or extend the period during which a disapproval may be issued for another thirty (30) days, such person shall stand approved. The period for disapproval may be further extended if the Department determines that the holding company or proposed director, executive officer, principal shareholder, or control person has not furnished all the information required by this Rule or, in the Department's judgment, inaccurate information has been submitted. An appointment or proposed change may be made prior to expiration of the disapproval period if the Department issues a written notice of its intent not to disapprove the proposed director, executive officer, principal shareholder, or control person.
- (3) The requirements of Paragraphs 1 and 2 of this Rule shall not apply to the principal shareholders, executive officers, directors, and control persons of a holding company that is a public company.
- (4) At the time of the submission of a MALPB charter application or at any time thereafter, a holding company that is not a public company can make a written request to the Department for a waiver or modification of the requirements of Paragraphs 1 and 2 of this Rule. Such request shall set forth in detail the rationale for the requested waiver or modification. In evaluating such request the Department shall consider, among other factors, the financial condition of the MALPB and the holding company, financial support from the holding company to the MALPB, any recent findings in the most recent audits and reports of examinations of the MALPB and the holding company, condition of the MALPB, number of independent directors at the holding company, manner of appointment or election of directors or executive officers at the holding company, evaluation process for directors, executive officers, principal shareholders, and control persons of the holding company, corporate governance of the holding company, and activities of the holding company and affiliates. It shall be in the Commissioner's sole discretion to approve, conditionally or otherwise, or deny the request for a waiver or modification.

Authority: O.C.G.A. §§ 7-1-73, 7-9-3, 7-9-6, 7-9-13.

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**CHAPTER 80-15**  
**LITIGATION FINANCING**

## SUBJECT 80-15-1

### REGISTRATION REQUIREMENTS AND ADMINISTRATIVE FINES

80-15-1-.01 Verification of Lawful Presence

80-15-1-.03 Administrative Fines

80-15-1-.02 Nationwide Multistate Licensing System and Registry

#### Rule 80-15-1-.01 Verification of Lawful Presence

- (1) Pursuant to O.C.G.A. § 50-36-1, the Department is required to obtain an affidavit verifying the lawful presence of every natural person that submits an application for a registration as a litigation financier on behalf of an individual, business, corporation, partnership, limited liability company, or any other business entity. For businesses, corporations, partnerships, limited liability companies, and other business entities (collectively "company applicant"), only an owner or executive officer that is authorized to act on behalf of the company applicant is authorized to submit the required signed and sworn affidavit.
- (2) In the event the individual that executed the lawful presence affidavit on behalf of the company applicant is no longer an owner or executive officer of the registrant, the registrant must notify the Department within ten (10) business days following the date of the occurrence and provide the Department with an affidavit from a current owner or executive officer verifying his or her lawful presence on behalf of the registrant. The failure to disclose within ten (10) business days that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the registrant or to timely submit a new affidavit from a current owner or executive officer may subject the registrant to a fine or administrative action.

Authority: O.C.G.A. §§ 7-10-2, 7-10-11.

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#### Rule 80-15-1-.02 Nationwide Multistate Licensing System and Registry

- (1) Registration.
  - (a) All applications for registrations must be made through the Nationwide Multistate Licensing System and Registry ("NMLS") unless otherwise expressly exempted from this requirement by the Department in writing. Applications for initial registrations which are approved between November 1 and December 31 in any year will not be required to file a renewal application for the next calendar year. All fees are non-refundable.
- (2) The responsibility of applicants and registrants to update information in NMLS.
  - (a) It shall be the sole responsibility of each applicant for a registration and each registrant to keep current at all times its information on the NMLS. Amendments to any information on file with the NMLS must be made by the applicant or registrant 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 registrant due to its failure to maintain current contact information on the NMLS as required.

- (b) Amendments to the registration or any responses to disclosure questions by an applicant for a registration or a registrant must be made within ten (10) business days following the date of the event necessitating the change. Failure by an applicant for a registration to timely update the applicant's responses to disclosure questions may result in the denial of the application. In the case of a registrant, failure to timely update the registration or any disclosure information may result in the imposition of an administrative fine.
- (c) It shall be the responsibility of each applicant for a registration and each registrant to ensure that its directors, officers, partners, and owners keep current at all times their information on the NMLS. Amendments to any information on file with the NMLS must be made by the director, officer, partner, or owner within ten (10) business days of the date of the event necessitating the change.
- (d) Amendments to any responses to disclosure questions by a director, officer, partner, or owner must be made within ten (10) business days following the date of the event necessitating the change. Failure by a director, officer, partner, or owner of an applicant for a registration to timely update their responses to disclosure questions may result in the denial of the application. In the case of a registrant, failure by a control person to timely update any disclosure information may result in the imposition of an administrative fine.
- (3) A registrant may challenge information entered by the Department into the NMLS. 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 registrant with a written reply that shall be the Department's final decision regarding the challenge.

Authority: O.C.G.A. §§ 7-10-2, 7-10-10, 7-10-11.

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### **Rule 80-15-1-.03 Administrative Fines**

- (1) Except as otherwise indicated, these fines and penalties apply to any person, partnership, association, corporation, or any other group of individuals, however organized, that is required to be registered under Chapter 10 of Title 7. The Department, at its sole discretion, may waive or modify a fine based upon the financial resources of the person, gravity of the violation, history of previous violations, and such other facts and circumstances deemed appropriate by the department.
- (2) All fines levied by the Department are due within thirty (30) days from the date of assessment.
- (3) In addition to any fines levied by the Department, the recipient of the fine may be subject to additional administrative actions for the same underlying activity.

(4) The Department establishes the following fines and penalties for violation of the laws and rules governing litigation financing.

- (a) Operating Without Proper Registration. Any person who acts as a litigation financier prior to being approved for a registration as required under Chapter 10 of Title 7, or who acquires a litigation financing business without its own registration, or during the time an applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$1,000) per day.
- (b) Felons. Any registrant that hires or retains a director, officer, or partner or permits an individual to become an owner who is a felon as described in O.C.G.A. § 7-10-3(a)(2) when such individual has not complied with the remedies provided for in O.C.G.A. § 7-10-3(a)(2) for each conviction before such employment or ownership interest, shall be subject to a fine of five thousand dollars (\$5,000) for each such individual.
- (c) Failure to Timely Disclose Change in Affiliation of Natural Person that Executed Lawful Presence Affidavit and Submission of New Affidavit. Any registrant that fails to disclose that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the registrant within ten (10) business days of the date of the event necessitating the disclosure, shall be subject to a fine of one thousand dollars (\$1,000). Any registrant that fails to submit a new lawful presence affidavit from a current owner or executive officer within ten (10) business days of the owner or executive officer that executed the previous lawful presence affidavit no longer being in that position with the registrant, shall be subject to a fine of one thousand dollars (\$1,000) per day until the new affidavit is provided.
- (d) Failure to Timely Update Information on the Nationwide Multistate Licensing System and Registry. Any registrant that fails to update its information on the Nationwide Multistate Licensing System and Registry ("NMLS") within ten (10) business days of the date of the event necessitating the change, shall be subject to a fine of one thousand dollars (\$1,000) per occurrence. In addition, the failure of a director, officer, partner, or owner of a registrant to update the individual's information on the NMLSR within ten (10) business days of the date of the event necessitating the change, shall subject the registrant to a fine of one thousand dollars (\$1,000) per occurrence.

Authority: O.C.G.A. § 7-10-11.