

**STATE OF GEORGIA  
DEPARTMENT OF  
BANKING AND FINANCE**



*BULLETIN... BULLETIN... BULLETIN... BULLETIN... BULLETIN...*

*NATHAN DEAL  
GOVERNOR*

*ROB BRASWELL  
COMMISSIONER*

*SPECIAL EDITION  
IMPORTANT NOTICE  
FINAL RULEMAKING*

**September 18, 2012**

# **DEPARTMENT OF BANKING AND FINANCE**

## **FINAL REGULATIONS**

**Adopted September 18, 2012**

To all interested persons:

Notice is hereby given that pursuant to the authority granted to it in the Georgia Administrative Procedures Act, Official Code of Georgia Annotated (O.C.G.A.) Chapter 50-13 and by authority of O.C.G.A. § 7-1-61, O.C.G.A. § 7-1-663; O.C.G.A. § 7-1-1012, and other cited statutes, the following attached Rules of the Department of Banking and Finance have been finally adopted on September 18, 2012. They were filed with the Secretary of State on September 18, 2012, and will be effective 20 days following or October 8, 2012.

### **Summary:**

The attached rules were proposed and distributed on August 14, 2012. We received one written comment letter. There were no changes to the Proposed Rules. The Department believes these Final Rules encourage safety and soundness, safe and fair mortgage lending, and conform to the law. This set of rules is your copy of the Final Rules.

## **FINAL RULES**

### **80-1-6-.01 Reports to Department.**

Every bank shall within ten (10) days after knowledge thereof report:

- (a) The election of any new chief executive officer;
- (b) The resignation or removal of the chief executive officer or any director, giving the reason for such action;
- (c) The discharge or suspension of any employee where the reason for such action was dishonest or fraudulent acts or breach of trust by the employee;
- (d) The transfer of any common stock of the bank aggregating fifteen (15) percent of the outstanding shares of common stock of the bank or any smaller transfer resulting in the new owner holding in the aggregate more than twenty-five (25) percent of the outstanding common stock of the bank.

Authority Ga. L. 1974, pp. 733, 735-737; O.C.G.A. 7-1-61.

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### **80-1-6-.02 Reports to Shareholders. Amended.**

(1) On or before the date of the annual stockholders' meeting of any bank, the shareholders of the bank, regardless of class or voting rights, shall each be provided with the following schedules for the last fiscal year on a comparative basis with the preceding fiscal year:

- (a) Statement of Assets, Liabilities, and Capital;
  - (b) Statement of Earnings and Expenses; and
  - (c) Reconcilement of Changes in Capital Accounts.
- (2) Bank Reports Maintained; Compensation to Directors, etc.
- (a) Each bank shall maintain throughout the year for inspection by any shareholder:
    - (i) Each call Report of Condition and Report of Income since the last shareholders' meeting at which such information was distributed;
    - (ii) A listing of all shareholders giving each of their names, post office address of record, and number of shares owned; and
    - (iii) A listing of compensation to each director and chief executive officer if not a director, including salaries, bonuses, committee fees, commission from sale of insurance, etc.

(b) Provided such information shall be available only upon written request by the shareholder setting forth the reasons for which such information is requested and certifying that the recipient will not further distribute any information furnished.

(c) Information requested under paragraph (a) shall be made available within ten (10) days of receipt of any written request therefor.

Authority Ga. L. 1974, p. 733; 1975, S.B. 145.

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**80-1-10-.06 Repealed and Reserved.**

Authority Ga. L. 1974, pp. 733, 849.

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**80-1-11-.01 Public Access to Records.**

The following records of the Department of Banking and Finance shall be subject to inspection by members of the public:

(a) Sections of accepted Applications for Charter, received applications for Branch Office, Relocation, Merger, Acquisition of Voting Control of Large Financial Institutions, and Holding Company formation deemed to be non-confidential by the department; provided, however, such non-confidential information will come within Section 80-1-11-.02 ninety (90) days after disposition has been made of the application; and

(b) The terms of or a copy of any bond filed with the Department by (1) mortgage licensees or registrants; and (2) money services businesses.

Authority Ga. L. 1974, pp. 733, 736-738; O.C.G.A. § 7-1-61.

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**80-3-1-.06 Reports of Apparent Criminal Irregularity by Check Cashers, Check Sellers, Money Transmitters, and Agents.**

(1) Sale of check and money transmitter licensees shall file with the Department the name, location, and federal tax identification number of any agent within this state who has failed to remit to the licensee the proceeds received from the sale of the licensee's checks or from licensee's money transmission activities within five (5) business days, or such lesser period of time as the licensee shall require, from the date of such sale or order to transmit and whose agency status has been terminated due to said failure with an outstanding liability due to the licensee. The report shall state the aggregate amount of unremitted check sales or money transmission proceeds due to the licensee and any provisions which have been made to recover same.

(2) Structuring to avoid reporting.

(a) Any person licensed to sell checks or cash checks in this state, agents of such licensees, other persons who cash checks for a fee, and persons operating a money transfer business and agents of such money transfer operators shall report to the Department any instance involving such check sales, check cashing, or money transfer operation where there is reasonable cause to believe that its customer has, for the purpose of evading the reporting requirements of the Act or O.C.G.A. Article 11 of Title 7:

1. Caused or attempted to cause a currency transaction report required under O.C.G.A. Article 11 of Title 7 or the Act not to be filed;

2. Caused or attempted to cause a currency transaction report required under O.C.G.A. Article 11 of Title 7 or the Act, to be filed containing a material omission or misstatement of fact;

3. Structured or assisted in structuring or attempted to structure or assist in structuring any currency transaction.

(b) For purposes of this Rule, “material omission” or “misstatement” and “structuring” shall have the meaning accorded such terms in O.C.G.A. §7-1-912.

(c) Agents of persons licensed to sell checks or cash checks in this state and agents of persons operating a money transfer business in this state shall not be required to report as provided in subsection (a) where the grantor of the agency has advised the agent in writing that the grantor operates a system of internal procedures designed to gather the pertinent data and file the reports required in subsection (a).

(3) Any licensee for the sale of checks, money transmitter, or check casher shall notify the Department within five (5) business days of any discovery of any criminal act or apparent criminal act by any officer, director, or employee of such licensee occurring in this state and relating to the business of the licensee. Such notification shall include a full description of the acts or apparent acts believed to be in violation of the criminal laws of this state or the United States, the names of all persons believed to be involved, a statement as to action taken by the licensee in response to the discovery or suspicions, and a copy of written notification to the licensee's employee fidelity insurance carrier.

(4) Licensees governed by these Rules shall be subject to amendments of the Act which may impose other reporting obligations for suspicious transactions.

Authority O.C.G.A. §7-1-61; §7-1-688; §7-1-704.

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**80-5-1-.04 Levy, Collection, Remittance and Refunds of Georgia Residential Mortgage Act Per Loan Fee.**

(a) Each borrower who obtains a mortgage loan as defined in O.C.G.A. § 7-1-1000(21) shall pay to the department a per loan fee of \$10.00. The \$10.00 fee will be due if the loan is a residential loan, and if a security deed, a modification of a security deed, or other form or modification of a security interest is recorded. A change to a security instrument made solely for the purpose of correcting a clerical error will not be subject to a \$10.00 fee. Any person who closes mortgage loans that are subject to regulation under Article 13, regardless of whether said person is required to be licensed or registered under the Georgia Residential Mortgage Act, shall act as collecting agent for payment to the department of said per loan fee for each mortgage loan closed by that person. A mortgage loan shall be deemed to have been closed by a person if such person is indicated as the secured party on the security deed or any other loan document that establishes a lien on the residential real estate taken as collateral for the mortgage loan.

(b) The fees payable under the provisions of subsection (a) shall be payable to the department by the collecting agent, who is the person responsible for remittance of such fees on a semiannual basis. More specifically, such fees for the period January 1 through June 30 of each year shall be remitted to the department no later than the first business day of September of each year and such fees for the period July 1 through December 31 of each year shall be remitted to the department no later than the first business day of March of each year. A fee statement indicating the number of mortgage loans closed during the applicable reporting period by the person remitting the payment shall accompany the fees remitted. The Department requires that the per loan fees and/or the corresponding statement shall be remitted to the Department through its online reporting and payment system at <https://bkgfin.dbf.state.ga.us/GRMAFee.html>. Failure to remit per loan fees and or the corresponding statement via the online reporting and payment system may result in a fine.

Authority Ga. L. 1974, pp. 732, 733; Ga. L. 1988, p. 243; 1993, p. 543; O.C.G.A. § 7-1-41; § 7-1-61; § 7-1-1012.

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**80-10-1-.01 Minimum Records Retention Periods.**

(1) STATUTORY REQUIREMENTS:	Georgia Minimum Retainment Period
(a) Minute Book of Stockholders and Directors' Meetings	Permanent
(b) Capital Stock Ledger	Permanent
(c) Capital Stock Certificate Book or Stubs	Permanent
(d) General Ledger	Permanent
(e) General Journal (book of original entry)	Permanent
(f) Investment Ledger or Bond Register	Permanent
(g) Daily Statement of Condition	Permanent
(h) Copies of Examination Reports	Permanent
(i) Evidence of Compliance with Regulation Z of Federal Reserve Board (Truth-in-Lending)	2 Years

(2)	AUDITING AND ACCOUNTING:	Georgia Minimum Retention Period
(a)	Accrual & Bond Amortization Records	4 Years
(b)	Audit Work Papers	2 Years
(c)	Bank Call Reports	3 Years
(d)	Daily Reserve Computation	2 Years
(e)	Earnings and Dividend Reports	3 Years
(f)	Internal Reports to Executive Committee or Directors	2 Years
(g)	Securities Vault "In and Out" Tickets	1 Year
(h)	Tax Records	7 Years
(i)	Record of all Assets Charged Off	10 Years
(j)	General Ledger Tickets (debits and credits)	5 Years
(k)	General Ledger Journal (not book of original entry)	1 Month
(l)	Internal Audit Reports	5 Years
(3)	CAPITAL:	Georgia Minimum Retention Period
(a)	Dividend Checks (paid and canceled)	7 Years
(b)	Proxies	2 Years
(4)	INVESTMENTS:	Georgia Minimum Retention Period
(a)	Brokers' Confirmations	2 Years
(b)	Brokers' Invoices	2 Years
(5)	LOANS AND DISCOUNTS:	Georgia Minimum Retention Period
(a)	Collateral Receipts	10 Years
(b)	Debit & Credit Tickets other than General Ledger Tickets	1 Year
(c)	Loan and Discount Journal:	
	1. If Journal is a byproduct of posting to Liability Ledger	5 Years
	2. If Journal is used as book of original entry with descriptions	5 Years
(d)	Liability Ledger	10 Years
(e)	Loan Applications	Life of Loan
(f)	Margin Cards	Life of Loan
(g)	Loan & Discount Register	7 Years
(h)	Resolutions to Borrow (after account closed)	7 Years
(i)	Interest Received	2 Years
(j)	Financial Statements and Credit Files	5 Years after payout on loans of \$5M or more and on all loans secured by real estate. All others for the life of loan.

(6)	RECORD RETENTION FOR CREDIT CARD ACCOUNTS:	Georgia Minimum Retainment Period
(a)	Cardholder Statement	5 Years
(b)	Teller Work (proof operations)	1 Year
(c)	Trial Balance	5 Years
(d)	Merchant Discount Journal	5 Years
(7)	PERSONNEL:	Georgia Minimum Retainment Period
(a)	Time Cards	3 Years
(b)	Salary Ledger	3 Years
(c)	Salary Receipts	3 Years
(8)	PROOF AND CLEARINGS: (see International Section)	Georgia Minimum Retainment Period
(a)	Clearing House Settlement Sheets	6 Months
(b)	Copies of Advices of Correction	6 Months
(c)	Department Proof Sheets	6 Months
(d)	Deposit Proof Sheets or Master Tapes of Proof Machine	6 Months
(e)	Out-of-Town Clearings Proof Sheets	6 Months
(f)	Cash Tickets	3 Months
(9)	TELLERS:	Georgia Minimum Retainment Period
(a)	Cash Items Record	2 Years
(b)	Receipts for Return Items	1 Month
(c)	Return Items Record book	6 Months
(d)	Tellers' Day Book (Register)	2 Years
(e)	Tellers' Recapitulation	3 Months
(f)	Tellers' Blotter, Journal or Proof	2 Years
(10)	CASH AND DUE FROM BANKS:	Georgia Minimum Retainment Period
(a)	Incoming Cash Letter Memos for Remittance	3 Months
(b)	Incoming Cash Letters for Credit	3 Months
(c)	Outgoing Cash Letter Memos for Credit or Remittance	6 Months
(d)	Advices of Credit or Debit	6 Months
(e)	Proof Sheets	6 Months
(f)	Bank Statements	1 Year
(g)	Reconcilement Ledger or Register	2 Years
(11)	DEPOSIT & CERTIFICATE ACCOUNTS:	Georgia Minimum Retainment Period
(a)	Social Security or Tax ID Number for Accounts opened after 6/30/72 (after account closed)	5 Years

(12)	DUE TO BANKS:	Georgia Minimum Retainment Period
(a)	Incoming Cash Letter Memos for Credit	6 Months
(b)	Incoming Cash Letters for Remittance	6 Months
(c)	Advices of Credit or Debit	6 Months
(d)	Proof Sheets	6 Months
(e)	Bank Ledger Sheets	5 Years
(f)	Ledger Journal	6 Months
(g)	Copies of Advices	6 Months
(h)	Reconcilement Verifications	6 Months
(i)	Resolutions (after account closed)	7 Years
(j)	Signature Cards (after account closed)	5 Years
(k)	Statement Copies	5 Years
(13)	COMMERCIAL DEPOSITS (DEMAND) (see International Section)	Georgia Minimum Retainment Period
(a)	Bookkeepers' Daily List of Checks, charged in total	1 Year
(b)	Deposit Tickets and Other Credits	2 Years
(c)	Individual Ledger Sheets (after last entry)	5 Years
(d)	Individual Ledger Journal	6 Months
(e)	Resolutions (after account closed)	7 Years
(f)	Signature Cards (after account closed)	5 Years
(g)	Statements Undelivered	7 Years
(h)	Stop Payment Orders	6 Months
(i)	Checks Paid Copy	5 Years
(j)	Statements (copies of)	5 Years
(14)	SAVINGS DEPOSITS: (see International Section)	Georgia Minimum Retainment Period
(a)	Deposit Tickets	2 Years
(b)	Journal	6 Months
(c)	Ledger Cards or Sheets (after last entry)	5 Years
(d)	Machine Control Journal Tapes	6 Months
(e)	Resolutions (after account closed)	7 Years
(f)	Signature Cards (after account closed)	5 Years
(g)	Savings Checks	7 Years
(h)	Statement Copies	5 Years
(15)	CERTIFICATES OF DEPOSIT:	Georgia Minimum Retainment Period
(a)	Certificates (after date paid)	7 Years
(b)	Register Ledger (after account closed) customer or account record	2 Years
(16)	CHRISTMAS SAVINGS OR SIMILAR CLUBS	Georgia Minimum Retainment Period
(a)	Checks (after date paid)	1 Year

(b)	Carbon Copies of Checks (check register)	1 Year
(c)	Coupons (used as deposit tickets)	1 Year
(d)	Ledger Sheets or Cards	5 Years
(e)	Withdrawal Receipts	1 Year
(f)	Signature Cards	5 Years
(17)	OFFICIAL DRAFTS AND CHECKS:	Georgia Minimum Retainment Period
(a)	Cashiers' Checks and Bank Money Orders (after paid)	7 Years
(b)	Certified Checks or Receipts for Same (after paid)	7 Years
(c)	Drafts (after paid)	7 Years
(d)	Expense Checks (after paid)	7 Years
(e)	Official Check Copies (after closed)	2 Years
(f)	Affidavits, Indemnities, etc. pertaining to lost drafts and checks	Permanent
(18)	INSURANCE RECORDS:	Georgia Minimum Retainment Period
(a)	Casualty Liability Policies (expired)	1 Year
(b)	Bankers Blanket Bond, theft, forgery, safe deposit and other forms of insurance issued for same purpose (unless present bond covers all liability in prior bonds)	10 years
(19)	COLLECTIONS:	Georgia Minimum Retainment Period
(a)	Collections Receipts, Carbons of	2 Years
(b)	Collection Register	2 Years
(c)	Coupons—cash letters out-going (after settlement)	6 Months
(d)	Departmental Blotter, Journal or Proof	2 Years
(e)	Incoming Collection Letters	6 Months
(f)	Installment Contract or Note Records (after account closed)	2 Years
(20)	BOND DEPARTMENT:	Georgia Minimum Retainment Period
(a)	Brokers' Confirmations	2 Years
(b)	Brokers' Invoices	2 Years
(c)	Securities—"Buy and sell orders"	2 Years
(21)	SAFEKEEPING:	Georgia Minimum Retainment Period
(a)	Records and Receipts (after account closed)	5 Years
(b)	Brokers' Invoices	2 Years

(22) SAFE DEPOSIT VAULT:	Georgia Minimum Retainment Period
(a) Access Tickets	5 Years
(b) Canceled Signature Cards	5 Years
(c) Correspondence pertaining to Authorization (after account closed)	5 Years
(d) Lease or Contracts---closed accounts (after account closed)	5 Years
(e) Ledger Record of Account	1 Year
(f) Night Depository Agreements (after account closed)	1 Year
(g) Night Depository Register (after account closed)	1 Year
(23) PERSONAL TRUST DEPARTMENT:	Georgia Minimum Retainment Period
(a) Cash Ledgers and Property Ledgers	Permanent
(b) Checks	10 Years
(c) Cash Register	10 Years
(d) Correspondence Files---General	3 Years
(24) DOCUMENT FILES:	Georgia Minimum Retainment Period
(a) Estates, Trusts, Guardianships	Permanent
(b) Agencies (after account closed)	5 Years
(c) Daily Blotter, Departmental (block sheets)	2 Years
(d) Journals---Daily	2 Years
(e) Posting Tickets	2 Years
(f) Property Controls---General Ledger	Permanent
(g) Tabulating Cards	After completion of income tax record for previous year
(h) Trial Balance	2 Years
(i) Annual Trial Balance	20 Years
(j) Copy or Listing for Form 1099	1 Year after filing
(k) Purchase and Sell Invoices and Approvals	5 Years
(l) Daily Statement of Trust Department	3 Years
(m) Minute Books-Trust Committee and Trust Investment Committee	50 Years
(25) TAX RETURNS:	Georgia Minimum Retainment Period
(a) Federal and State Income Tax Returns	5 Years after filing
(b) Estate Tax Returns	15 Years after filing
(c) Intangible Tax Returns	2 Years after filing
(d) Ad Valorem Tax Returns	2 Years after filing
(e) Social Security Returns	5 Years after filing
(26) CORPORATE TRUST DEPARTMENT:	Georgia Minimum Retainment Period
(a) Corporate Cash and Property Ledgers	Permanent

Correspondence:		
	Corporate Trust (bond issues)	3 Years
	Dividend	3 Years
	General	3 Years
(b)	Coupon Collection Record	Optional
(c)	Coupon Envelopes	Optional
(d)	Dividend and Interest Disbursement Checks	7 Years
(e)	Dividend and Interest Disbursement List	Optional
(f)	Document Files---Trusts (after account)	Permanent
(g)	Document Files---Agency (after account closed)	5 Years
(h)	Stock Transfer Journals	Permanent
(i)	Stock Certificates (cancelled) and supporting documents and replacement surety bond	20 Years
(27) LEDGER RECORDS:		Georgia Minimum Retainment Period
(a)	Stockholders' Ledgers (unless transfer agency account closed)	Permanent
(b)	Stock (Register Journal)	Until account closed
(c)	Stock Transfer Receipts	5 Years
(d)	Receipts for cancelled bonds, coupons and/or cremation certificates	Until account closed
(e)	Stockholders' List	Optional
(f)	Daily Blotter, Departmental (block sheets)	2 Years
(28) INTERNATIONAL:		Georgia Minimum Retainment Period
(a)	Accounts with foreign banks	5 Years
(b)	Records of transfer of more than \$10M to persons outside U.S.	5 Years
(c)	Copy of item of more than \$10M remittance or transferred outside U.S.	5 Years
(d)	Copy of check of more than \$10M drawn on or issued by a foreign bank and acquired by "bank"	5 Years
(e)	Items of more than \$10M received from outside U.S.	5 Years

Authority Ga. L. 1974, pp. 733, 849.

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### **80-11-3-.01 Administrative Fines.**

(1) As authorized under Article 13 of Chapter 1 of Title 7, O.C.G.A. § 7-1-1018(g) and § 7-1-1005(d), the Department establishes the following fines and penalties for violation of the Georgia Residential Mortgage Act (“GRMA”) or its rules. Except as otherwise indicated, these fines and penalties apply to any person who is acting as a mortgage lender or broker and who is required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 (“licensee” or “registrant”). The Department, at its sole discretion, may waive or modify a 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, 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(d).

(4) Dealing with Unlicensed Persons. Any licensee or registrant or any employee of either who 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 the GRMA shall be subject to a fine of one thousand dollars (\$1,000) per transaction and the licensee or registrant shall be subject to suspension or revocation. Licensees are responsible for the actions of their employees.

(4.1) Permitting unlicensed persons to engage in mortgage loan originator activities. Any licensee or registrant who employs a person who does not hold a mortgage loan originator's license but engages in licensed mortgage loan originator activities as set forth in O.C.G.A. § 7-1-1000(22) shall be subject to a fine of one thousand dollars (\$1,000) per occurrence and the licensee or registrant shall be subject to suspension or revocation. Licensees are responsible for the actions of their employees.

(5) Relocation of Office. Any mortgage broker or mortgage lender licensee who relocates their main office or any additional office and does not notify the Department within thirty (30) days of the relocation in accordance with O.C.G.A. § 7-1-1006(e) shall be subject to a fine of five hundred dollars (\$500).

(6) Unapproved Offices. In addition to the application, fee and approval requirements of O.C.G.A. § 7-1-1006(f), any licensee who operates an unapproved branch office shall be subject to a fine of five hundred dollars (\$500) per unapproved branch office operated and their license will be subject to revocation or suspension;

(7) Change in Ownership. Any person who acquires ten percent (10%) or more of the capital stock or a ten percent (10%) or more ownership of a mortgage broker or mortgage lender licensee without the prior approval of the Department in violation of O.C.G.A. § 7-1-1008 shall be subject to a fine of five hundred dollars (\$500) and their license or registration will be subject to revocation or suspension;

(8) Doing Business Without a License or in Violation of Administrative Order. Any person who acts as a mortgage broker or mortgage lender prior to receiving a current license or registration required under O.C.G.A. Title 7, Chapter 1, Article 13, 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 their mortgage lender or broker application will be subject to denial or their license or registration will be subject to revocation or suspension.

(9) Hiring a Felon. Any mortgage broker or mortgage lender licensee or registrant who hires or retains an employee who is a felon as described in O.C.G.A. § 7-1-1004(h), which employee has not complied with the remedies provided for in O.C.G.A. § 7-1-1004(h), may be fined five thousand dollars (\$5,000) per employee found to be in violation of such provision and their license or registration will be subject to revocation or suspension.

(10) Hiring Persons Otherwise Disqualified from Conducting a Mortgage Business. Any mortgage broker or mortgage lender licensee or registrant who employs any person against whom a final cease and desist order has been issued for a violation that occurred within the preceding five (5) years, if such order was based on a violation of O.C.G.A. § 7-1-1013 or based on the conducting of a mortgage business without a required license or exemption, or whose license was revoked within five (5) years of the date such person was hired pursuant to O.C.G.A. § 7-1-1004(o) shall be subject to a fine of five thousand dollars (\$5,000) per such employee and its license or registration will be subject to revocation or suspension;

(11) Books and Records Violations. If the Department, in the course of an examination or investigation, finds that a licensee or registrant has failed to maintain their books and records according to the requirements of O.C.G.A. § 7-1-1009 and Rule Chapter 80-11-2, such licensee or registrant may be subject to a fine of one thousand dollars (\$1,000) for each violation of a books and records requirement listed in Rule Chapter 80-11-2.

(12) Maintenance of Loan Files. Any person who is required to be licensed under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage broker or any lender acting as a broker who fails to maintain a loan file for each mortgage loan transaction as required by Rule 80-11-2-.04 or who fails to have all required documents in such file shall be subject to a fine of one thousand dollars (\$1,000) per file not maintained or not accessible, or per file not containing required documentation.

(13) Payment of \$10.00 fees and filing of fee statement. Any person who acts as the collecting agent at a closing of a mortgage loan transaction subject to the Georgia Residential Mortgage Act, is liable for payment of the \$10.00 fee to the Department, pursuant to O.C.G.A. § 7-1-1011 and Rule 80-5-1-.04. The filing of a fee statement and the remittance of any \$10.00 fees collected made after the date on which they are due shall subject the person to a late fee of one hundred dollars (\$100) for each due date missed. If the Department finds that a person has not, through negligence or otherwise, submitted \$10.00 fees within six months of the due date, it may impose an additional one hundred dollars (\$100) fine for failure to remit fees. Repeated failure to submit \$10.00 fees may be grounds for revocation of license.

(14) Repealed. Reserved.

(15) Reporting of Violation of Law or Discharge of Employee for Same. Any person required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage

lender or broker, who fails to report prohibited acts or the discharge of employees for dishonest acts, pursuant to O.C.G.A. § 7-1-1007(d) shall be subject to a fine of one thousand dollars (\$1,000) per act not reported in writing to the Department within 10 days of knowledge of such act.

(16) Prohibited Acts. Any person who is required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage broker or mortgage lender 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. Misrepresentations also subject the person making them to a fine. Misrepresentations include but are not limited to the following: (i) inaccurate or false identification of applicant's employer; (ii) significant discrepancy between applicant's stated income and actual income; (iii) omission of a loan to applicant, listed on loan application, which was closed through same lender or broker; (iv) false or materially overstated information regarding depository accounts; (v) false or altered credit report; and (vi) any fraudulent or unauthorized document used in the loan process. A fine of one thousand dollars (\$1,000) shall be assessed for any other violation of O.C.G.A. § 7-1-1013. The Department shall upon written request provide evidence of the violation.

(17) Branch Manager Approval. Any person who is required to be licensed or registered as a mortgage broker or mortgage lender shall be subject to a fine of five hundred dollars (\$500) for operation of a branch with an unapproved branch manager and the license will be subject to revocation or suspension. No such fine shall be levied while Department approval is pending if timely application for approval is made pursuant to Rule 80-11-1-.04.

(18) Education and Experience Requirements. Any mortgage broker licensee subject to the experience and education requirements who fails to meet such requirements shall be fined one thousand dollars (\$1,000) for operating a mortgage business without meeting licensing standards, and their license or registration will be subject to revocation or suspension.

(19) Failure to Fund. O.C.G.A. § 7-1-1013(3) prohibits failure "to disburse funds in accordance with a written commitment or agreement to make a mortgage loan." If the Department finds, either through a consumer complaint or otherwise, that a lender or a broker acting as a lender has failed to disburse funds in accordance with closing documents, which include legally binding executed agreements indicating a promise to pay and a creation of a security interest, a fine of five thousand dollars (\$5,000) per transaction may be imposed and its license or registration may be subject to revocation or suspension.

(20) Advertising. Any person who is required to be licensed or registered as a mortgage broker or mortgage lender 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 department Rule 80-11-1-.02 shall be subject to a fine of five hundred dollars (\$500) for each violation of law or rule.

(21) 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.

(22) Repealed. Reserved.

(23) Background Checks. Any licensee who fails to perform proper background checks on covered employees in accordance with the provisions of O.C.G.A. § 7-1-1004(h), (i), and (k) shall be subject to a fine of one thousand dollars (\$1,000) for each employee on whom the required background check was not conducted.

(24) Change in Officers. Any licensee who fails to notify the Department of a change in principals of the company without the proper approval of the Department in violation of O.C.G.A. § 7-1-1006(e) shall be subject to a fine of five hundred dollars (\$500).

(25) Georgia Fair Lending Act. Any person who is required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage broker or mortgage lender who violates any provision of Chapter 6A of Article 13, the Georgia Fair Lending Act, shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation and their license will be subject to revocation or suspension.

(26) Consumer Complaints. Any licensee or registrant who fails to respond to a consumer complaint or fails to respond to the Department within the time periods specified in the Department's correspondence to such person shall be subject to a fine of one thousand dollars (\$1,000) for each occurrence. Repeated failure to properly respond to consumer complaints may result in revocation of license.

(27) Failure to Perform Timely Background Checks. If the ten (10) day requirement for submission of background information to the proper law enforcement authorities is not met, the employer shall be subject to a one thousand dollars (\$1,000) fine.

(28) Failure to Timely File Call Reports. Any licensee or registrant who fails to timely file a Call Report as required through the Nationwide Mortgage Licensing System and Registry shall be subject to a one hundred dollars (\$100) fine per occurrence. Repeated failure to timely file Call Reports as required may result in revocation of license.

Authority O.C.G.A. § 7-1-61; § 7-1-1012; § 7-1-1004.1.

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### **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 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.