



# Bankers Advisory

## COMPLIANCE MONITOR

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### *State of Georgia Modifies Loan Originator Licensing Requirements*

**By Zachary Pearlstein**

Georgia has recently updated its mortgage lender and broker licensing requirements, effective immediately. The state has exempted employees of certain nonprofit corporations, which promote affordable housing, from mortgage loan originator licensing requirements.

The updated provisions state that employees of bona fide nonprofit corporations, who act as loan originators only for such corporations, and who only offer mortgage loans with terms that are favorable to borrowers, are not required to obtain a mortgage loan originator license.

A nonprofit corporation will only be considered a bona fide nonprofit corporation if it is determined that that the corporation:

- i. Has a tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986;
- ii. Promotes affordable housing;
- iii. Conducts its activities in a manner that serves public or charitable purposes (rather than commercial purposes)
- iv. Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients;
- v. Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients;
- vi. Provides or identifies for the borrower mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs.
  - a. In order for mortgage loans to have terms that are favorable to the borrower, the department shall determine that the terms are consistent with loan origination in a public or charitable context, rather than in a commercial context.

An organization that has been identified as a bona fide nonprofit corporation will have its books and activities examined periodically, in order to ensure that it continues to meet the criteria for such status. If the nonprofit corporation no longer qualifies for such status, then the employee exemption from having a mortgage loan originator license will no longer apply.



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