



Bankers Advisory

COMPLIANCE MONITOR

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Georgia Adopts Various Provisions Applicable to Residential Mortgage Act

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The Georgia Department of Banking and Finance adopted various provisions with respect to the Residential Mortgage Act including licensing fees, examinations and renewals, advertising requirements, maintenance of records, and administrative fines. These provisions are effective on July 10, 2016.

Chapters 80-5 and 80-11: Financial Institutions and Brokers and Lenders

80-5-1-.07 License Renewal Periods and Requirements for Mortgage Brokers, Mortgage Lenders, and Mortgage Originators.

- a) For purposes of this Article the Nationwide Multistate Licensing System and Registry (NMLSR) is defined as a uniform multi-state administration of an automated licensing system for mortgage brokers and mortgage lenders. The department's participation in the NMLSR is authorized by O.C.G.A. § 7-1-1003.5.
- b) All applications for new licenses or registrations must be made through NMLSR. Fees for new applications include an initial Department investigation fee and the appropriate application fee for the application type. Applications for new licenses and 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.
- c) All licenses and registrations issued pursuant to the Act shall expire on December 31 of each year, and an application for renewal shall be made annually between November 1 and December 31 each year. Subsequent renewal applications and/or license fees must be received on or before December 1 of each year or the applicant will be assessed a late fee as set forth in these rules by license or registration type. A renewal application is not deemed received until all required information, including documentation of any required continuing education coursework, and corresponding fees, has been provided by the licensee. A proper renewal application 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. Unless a proper application has been received any license or registration which is not renewed on or before December 31 will require the applicant to file a reinstatement application in order to conduct mortgage business in the State after that date.

80-11-1-.02 Advertising Requirements.

- a) Advertisements for mortgage loans shall not be false, misleading, or deceptive.
- b) Advertisements for mortgage loans shall not indicate in any manner that the interest rates or charges for loans are in any way recommended, approved, set or established by the state or by any law of the state.
- c) All solicitations or advertisements, including business cards and websites, for mortgage loans disseminated in this state by persons required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 shall contain the name, license number, valid unique Nationwide Multistate Licensing System and Registry (NMLSR) identifier, and an office address of the licensee or registrant advertising the mortgage loan, which name, address, and license number shall conform

with the name, license number, valid unique NMLSR identifier and office address on record with the Department of Banking and Finance.

- d) All advertisements disseminated in this state by persons required to be licensed under O.C.G.A. Title 7, Chapter 1, Article 13 in any media, whether print or electronic, shall contain the words "Georgia Residential Mortgage Licensee" or, if an entity is licensed in more than one state, the licensee's advertisement may list Georgia as a state in which the licensee is licensed.
- e) All advertisements for mortgage loans shall comply with all applicable federal and state laws.
- f) For purposes of this Rule, "advertisement" means material used or intended to be used to induce the public to apply for a mortgage loan. Such term shall include any printed or published material, audio or visual material, website, or descriptive literature concerning a mortgage loan subject to regulation under O.C.G.A. Title 7, Chapter 1, Article 13 whether disseminated by direct mail, newspaper, magazine, radio or television broadcast, electronic, billboard or similar display. The term advertisement shall not include promotional materials containing fifteen words or fewer relating to the mortgage business of the entity which material does not contain references to a specific rate or product, such as balloons, hats, pencils or pens, and calendars.
- g) Every mortgage broker or mortgage lender required to be licensed or registered shall maintain a record of samples of its advertisements (including commercial scripts of all radio and television broadcasts) for examination by the Department of Banking and Finance.
- h) An advertisement shall not include an individual's loan number, loan amount, or other publicly available information unless it is clearly and conspicuously stated in bold-faced type at the beginning of the advertisement that the person disseminating it is not authorized by, acting on behalf of, or otherwise affiliated with the individual's lender, which shall be identified by name. Such an advertisement shall also state that the loan information contained therein was not provided by the recipient's lender.

80-11-2-.04 Mortgage Loan Files.

- 1) Any person who is acting as a mortgage broker and who is required to be licensed under O.C.G.A. Title 7, Article 13, whether as a broker or a lender ("licensee"), shall maintain a loan file for each mortgage loan transaction. The files shall be maintained in an alphabetical or numerical sequence in the principal place of business or in each branch office where mortgage loans are originated, provided that the branch office is indicated on the licensee's initial written application for licensure or written amendment thereto.
- 2) Each loan file shall contain the following:
 - a) Copy of the signed mortgage loan application with the Nationwide Multistate Licensing System and Registry (NMLSR) unique identifier of the mortgage loan originator if the application form is received by the licensee;
 - b) Copy of credit report if the credit report is pulled or ordered by the licensee;
 - c) Copy of the appraisal and the order for such appraisal if the appraisal is ordered by the licensee;
 - d) Copy of signed closing statement (HUD-1) or documentation of denial or cancellation of loan application;
 - e) Copies of the disclosure documents required by Rule 80-11-1-.01;
 - f) Copies of all contracts, letters, notes and memos regarding the customer, including but not limited to lock-in agreements and commitment agreements; and
- 3) For canceled loans, a licensee shall maintain a copy of any unsigned mortgage loan application if taken.
- 4) Failure to maintain files and required documentation (incidental and isolated clerical errors or omissions shall not be considered a violation) may be grounds for suspension of the license or other appropriate administrative action and will subject the licensee to fines in accordance with regulations prescribed by the Department.

View the full text at <http://rules.sos.ga.gov/gac/80>