

Georgia Rules and Regulations

Administrative Bulletin for January 2021

OFFICE OF SECRETARY OF STATE ADMINISTRATIVE PROCEDURE DIVISION

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295. JOINT SECRETARY, PROFESSIONAL LICENSING BOARDS	295-2-.01 --- 295-2-.03	amended	May 13, 2020	Jan. 1
	295-2-.04	amended	June 11, 2020	Jan. 1
	295-2-.11 , 295-2-.13 , 295-2-.14 , 295-2-.17	amended	May 13, 2020	Jan. 1

Department 40. RULES OF GEORGIA DEPARTMENT OF AGRICULTURE

Chapter 40-7. FOOD DIVISION REGULATIONS

Subject 40-7-5. ADDITIONAL REGULATIONS APPLICABLE TO RETAIL SALE OF FRESH AND FROZEN SEAFOOD, MEAT, POULTRY AND OTHER FOODS FROM MOBILE VEHICLES

40-7-5-.01 [Effective 2/14/2021] Definition

- (1) "Meat" means the carcass or any part of any carcass of any animal or any by-product thereof in any form.
- (2) "Mobile vehicle" means any vehicle that is mobile and includes land vehicles, air vehicles, and water vehicles (shrimp boats and other vessels which are mobile by water).
- (3) "Poultry" means domestic fowl including, but not limited to, water fowl such as geese and ducks; birds which are bred for meat or egg production; game birds such as pheasants, partridge, quail, and grouse, as well as guinea fowl, pigeons, doves, and peafowl; ratites; and all other avian species.
- (4) "Regulatory authority" means the local, state, or federal enforcement body or authorized representative having jurisdiction over a food establishment or food processing plant.
- (5) "Seafood" means all fresh or frozen fish and all fresh or frozen shellfish, such as shrimp, oysters, clams, scallops, lobsters, crayfish, and other similar fresh or frozen edible products; but such term will not include canned or salted seafood.

Cite as Ga. Comp. R. & Regs. R. 40-7-5-.01

AUTHORITY: O.C.G.A. §§ [26-2-1](#), *et seq.*, 26-2-410.

HISTORY: Original Rule entitled "Scope of Regulations" adopted. F. and eff. June 30, 1965.

Repealed: New Rule entitled "Definition" adopted. F. Apr. 30, 1996; eff. May 20, 1996.

Amended: F. November 10, 2010; eff. November 30, 2010.

Amended: F. Jan. 25, 2021; eff. Feb. 14, 2021.

40-7-5-.02 [Effective 2/14/2021] Retail Sale of Fresh Seafood, Meat or Poultry from Mobile Vehicles

- (1) A license must be obtained for each vehicle in operation prior to putting each vehicle into service. The original license must be conspicuously displayed on the vehicle during sales. The vehicle must be made available for inspection prior to the licensing process and once every six months thereafter, for as long as it remains in service.
- (2) The vehicle's storage and sales areas must be completely enclosed. Screens are acceptable only to make the vehicle enclosed at the time the vehicle is stopped to sell. Screens must be of a sufficient mesh size to eliminate the entry of flies and other insects. Air screens that are adequate and effective may be used in lieu of screens.

- (3) The vehicle's floors and walls must be made of a smooth-surface material and must be maintained in a clean and sanitary condition.
- (4) The vehicle must have adequate toilet facilities, unless such facilities; are readily accessible.
- (5) The vehicle must have lavatory facilities with hot and cold running water under pressure; and cake, powder, or liquid soap must be made available with individual paper, individual cloth, or other type towels.
- (6) The vehicle must be equipped with an approved sink having at least two compartments. This sink must have hot and cold running water under pressure.
- (7) Water used in this operation must be potable and from an approved source. The vehicle must have an approved storage tank which is adequately sized for the vehicle's operation, unless the vehicle can be connected to a water supply at each point of operation.
- (8) Liquid waste must drain into an approved holding tank for disposal later in an approved manner, unless the vehicle can be connected to an approved disposal system at each point of operation.
- (9) All products stored or offered for sale must be held in leak-proof containers, unless a method is devised to drain water produced by ice melting on the product into a liquid waste disposal system as described above in Paragraph 8.
- (10) All fresh seafood or poultry must be maintained at or below 41 degrees Fahrenheit by adequate ice alone or in combination with mechanical refrigeration. All meat must be maintained at or below 41 degrees Fahrenheit by mechanical refrigeration only.
- (11) Oysters in the shell must be sold only from vehicles that have mechanical refrigeration sufficient to maintain this product at or below 45 degrees Fahrenheit.
- (12) All food must be protected from contamination by dust, dirt, or other foreign or injurious contaminants and from cross-contamination by other types of food products.
- (13) . All phases of the retail transaction must be accomplished within the enclosed vehicle. This includes obtaining the particular product requested by a customer from storage within the vehicle, weighing the product, and packaging the product.
- (14) . An approved scale must be used in weighing products for sale, and the scale must be placed so the customer can easily see the weight registered.
- (15) The name, address, and telephone number of the firm must be conspicuously displayed on the vehicle during sales.
- (16) Advertisements must be completely in accordance with the labeling of the containers. The price per pound of each product must be included in the advertisement.
- (17) The vehicle must be serviced only through approved storage facilities.
- (18) In addition to the requirements established by this Rule, applicable laws and rules administered by the Georgia Department of Agriculture regarding foods also apply.
- (19) Firms presently licensed for sale from vehicles must comply with these regulations within 90 days from the date of their adoption.
- (20) When weighted, packaged, and labeled at a facility currently licensed and inspected by the Department, fresh shrimp may be sold from a land-based mobile vehicle to the exclusion of 40-7-5-.02(2), (4), (5), (6), (7), (8), and (13).

(a) All prepackaged fresh shrimp must comply with Rule [40-7-1-.13](#) and Subject 40-15-3.

(b) If the Department determines that prepackaged fresh shrimp have not been stored, handled, labeled, or offered for sale in compliance with these regulations, the Department may deem the shrimp adulterated or misbranded and subject to embargo or disposal by the Department. The Department may temporarily or permanently issue an order to embargo, condemn, destroy, or otherwise dispose of all prepackaged shrimp found to be adulterated or improperly identified.

(21) When weighted, packaged, and labeled at a facility currently licensed and inspected by a Regulatory Authority; fresh meat, poultry, and seafood may be sold from a land-based vehicle to the exclusion of 40-7-5-.02(2), (4), (5), (6), (7), (8), and (13).

(a) All prepackaged fresh meat, poultry, and seafood must comply with Rule [40-7-1-.13](#) and Subject 40-15-3.

(b) If the Department determines that prepackaged fresh meat, poultry, or seafood have not been stored, handled, labeled, or offered for sale in compliance with these regulations, the Department may deem the product adulterated or misbranded and subject to embargo or disposal by the Department. The Department may temporarily or permanently issue an order to embargo, condemn, destroy, or otherwise dispose of all prepackaged product found to be adulterated or improperly identified.

Cite as Ga. Comp. R. & Regs. R. 40-7-5-.02

AUTHORITY: O.C.G.A. § [26-2-411](#), *et seq.*

HISTORY: Original Rule entitled "Floors" adopted. F. and eff. June 30, 1965.

Repealed: New Rule entitled "Retail Sale of Fresh Seafood, Meat or Poultry from Mobile Vehicles" adopted. F. Apr. 30, 1996; eff. May 20, 1996.

Amended: F. November 10, 2010; eff. November 30, 2010.

Amended: F. Aug. 27, 2019; eff. Sep. 16, 2019.

Amended: F. Jan. 25, 2021; eff. Feb. 14, 2021.

40-7-5-.03 [Effective 2/14/2021] Retail Sale of Frozen Seafood, Meat, Poultry and Other Food

(1) A license must be obtained for each vehicle in operation prior to putting each vehicle into service. The original license must be conspicuously displayed on the vehicle during sales. The vehicle must be made available for inspection prior to the licensing process and once every six months thereafter, for as long as it remains in service.

(2) Advertisements must be completely in accordance with the labeling on the containers. The price per pound of random-weight products must be included in the advertisement. Standard-weight packages may show a total price only in the advertisement.

(3) An approved scale must be available and placed so the customer can easily see the weight registered.

(4) Toilet and lavatory facilities must be available and conveniently located. Lavatories must have hot and cold running water under pressure; and cake, powder, or liquid soap must be made available with individual paper, individual cloth, or other type towels. Hot water must be made available.

(5) Refrigerated vehicles must have a workable mechanical refrigeration system as the primary refrigeration source. Frozen foods must be maintained frozen, and all sales must be by unbroken box or package.

(6) The name, address, and telephone number of the firm must be conspicuously displayed on the vehicle at all times during sales.

(7) Sample boxes must not be displayed off refrigeration. Products sold to customers at locations other than the vehicle must be picked up by the customer from the vehicle.

(8) The vehicle must be serviced only through approved storage facilities.

(9) In addition to the requirements established by this Rule, applicable laws and rules administered by the Georgia Department of Agriculture regarding foods also apply.

(10) Firms presently licensed for sale from vehicles must comply with these regulations within 90 days from the date of their adoption.

Cite as Ga. Comp. R. & Regs. R. 40-7-5-.03

AUTHORITY: O.C.G.A. §§ [26-2-1](#), [26-2-411](#).

HISTORY: Original Rule entitled "Water" adopted. F. and eff. June 30. 1965.

Repealed: New Rule entitled "Retail Sale of Frozen Seafood, Meat, Poultry and Other Food" adopted. F. Apr. 30, 1996; eff. May 20, 1996.

Amended: F. Aug. 12, 2005; eff. Sept. 1, 2005.

Amended: F. November 10, 2010; eff. November 30, 2010.

Amended: F. Jan. 25, 2021; eff. Feb. 14, 2021.

Department 40. RULES OF GEORGIA DEPARTMENT OF AGRICULTURE

Chapter 40-14. STATE WAREHOUSE DIVISION

Subject 40-14-4. STORAGE

40-14-4.02 Cotton Storage

(1) There will be a minimum of two cotton examinations per year. All cotton stored in a licensed warehouse must be aligned both vertically and horizontally so as to facilitate ready tag check and bale count.

(a) The first examination will be a bale count, which will be performed after the ginning season is complete.

(i) The height of stacks must not exceed three high when stacked end on end or eight high when stacked flat.

(ii) All bales must be visible and readily accessible for counting during the first examination.

(b) The second examination will be a tag check, which will be performed after notice of said examination has been provided to the licensed warehouse.

(i) The height of stacks must not exceed two high when stacked end on end or four high when stacked flat.

(ii) All tags must be visible and readily accessible for scanning during the second examination.

(iii) The licensed warehouse must ensure that all tags are visible and readily accessible for scanning prior to the scheduled second examination.

(2) Tag aisles (walk aisles, fire aisles or work aisles) must be provided as follows:

(a) When stacked one high on end, at least one aisle for each four rows of cotton except no aisle is required when head space of six feet or more, in the clear, is available above the cotton.

(b) At least one aisle for each two rows when stacked flat or more than one high on end.

(c) A minimum aisle width of 24 inches regardless of stacking pattern or height of stack.

(d) A minimum aisle width of 30 inches when stacked two bales high on end or four or five bales high flat (9 to 12 feet high).

(e) A minimum aisle width of 36 inches when stacked more than two bales high on end or more than five bales high flat (over 12 feet high).

(3) When stacked on end, two or more high, additional bales may be stacked on end, single height, within the above mentioned tag aisles, provided they do not preclude ready access to all bale tags and/or provided ample head room of six feet or more, in the clear, remains above the bales stacked in the tag aisles.

(4) The height of stacks must not exceed three high when stacked end on end or eight high when stacked flat.

(5) A fire aisle of at least five feet must be provided for or between each 12,000 cubic foot block of cotton. Twelve thousand (12,000) cubic feet will accommodate approximately the following number of bales:

Flat cotton	300
Gin Std. Cotton	550
Std. Density cotton	600
Hi Density cotton	800

(6) Work aisles across or through buildings or from main entrances to each block of 300 bales must be provided in each warehouse or compartment as follows:

(a) A minimum width of six feet when capacity is from 600 to 1200 bales.

(b) A minimum width of eight feet when capacity exceeds 1200 bales.

(7) Upon request, the Commissioner may grant exemptions to this rule when such request is deemed justified, based on acceptable industry practices, and when such request would not violate safety standards or compromise the integrity of regulatory inspection.

Cite as Ga. Comp. R. & Regs. R. 40-14-4-.02

AUTHORITY: Ga. 1953, p. 412. O.C.G.A. § [10-4-1](#) *et. seq.*

HISTORY: Original Rule entitled "Cotton Storage" was filed and effective on June 30, 1965.

Amended: F. Aug. 2, 1995; eff. Aug. 22, 1995.

Amended: F. Jan. 4, 2021; eff. Jan. 24, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-1. BANKS

Subject 80-1-1. APPLICATIONS, REGISTRATIONS AND NOTIFICATIONS

80-1-1-.06 Application or Notice Requirements for Additional Banking Locations

(1) Definitions of terms used in this regulation are provided in Code Section [7-1-600](#).

(2) Establishment of a branch office:

(a) New or additional branch offices may be established with the prior approval of the Department by regular application or by expedited application for certain qualified banks as provided below. The manner and criteria for establishment of branch offices is provided for in Code Section [7-1-602](#).

(b) The rules for processing regular applications for branch offices are the same as those for bank charters, contained in Department of Banking and Finance Rule numbers [80-1-1-.02](#) and [80-1-1-.03](#), with the exception of [80-1-1-.03\(1\)](#). In lieu of official acceptance, the Department will notify applicants for branch offices of the date of receipt of the application.

(3) In lieu of a regular application, a bank which satisfies the qualifying criteria for expedited processing in paragraphs (1) through (4) of Rule [80-1-1-.10](#) may submit an expedited application to establish a new branch office. The authority, manner and criteria for establishment of a branch office under this procedure are provided for in Code Section [7-1-602](#) and this Rule.

(a) The expedited application must include the following:

(i) The physical address of the branch office;

(ii) A statement regarding whether or not an insider is involved in the acquisition, construction, or leasing of the property;

(iii) The anticipated fixed asset investment for this proposal, and whether the bank will be in compliance with Code Section [7-1-262](#); and

(iv) A statement certifying that the applicant qualifies for the expedited application procedure under the applicable qualifying criteria.

(b) Unless it has previously issued an approval letter under subparagraph (c), the Department will use its best efforts to acknowledge a qualifying expedited application or notify the applicant that it does not qualify for expedited processing within two business days of receipt of such notice.

(c) The approval to establish the branch office will be effective at the earlier of: an approval letter from the Department, or 10 business days from the date of acknowledged receipt.

(d) The Department may remove the notice from this expedited procedure for any of the reasons set forth in paragraph (5) of Rule [80-1-1-.10](#).

Cite as Ga. Comp. R. & Regs. R. 80-1-1-.06

AUTHORITY: O.C.G.A. §§ [7-1-7](#); [7-1-61](#); [7-1-602](#); [7-1-603](#).

HISTORY: Original Rule entitled "Extensions of Existing Facilities" adopted. F. Aug. 28, 1975; eff. Sept. 17, 1975.

Amended: F. July 7, 1988; eff. July 27, 1988.

Amended: Rule retitled "Letter Form Application for Extension, ATM Notification" adopted. F. Sept. 26, 1995; eff. Oct. 16, 1995.

Amended: F. Aug. 26, 1997; eff. Sept. 15, 1997.

Amended: Rule retitled "Application Requirements for Additional Banking Locations". F. July 14, 1998; eff. Aug. 3, 1998.

Amended: F. July 12, 1999; eff. Aug. 1, 1999.

Amended: F. Dec. 6, 1999; eff. Dec. 26, 1999.

Amended: F. Dec. 18, 2000; eff. Jan. 7, 2001.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-1-1-.07 Expansion or Extension of Banking Location

(1) No notification is necessary for an extension that is an ATM, cash dispensing machine, night depository or point of sale terminal.

(2) If any other extension is located within the boundary lines of a single contiguous area of property owned or leased by the bank and used as a banking location or if it is within 200 yards of such banking location, then the bank must provide written notice to the Department of such extension. Such notification shall be in letter form and shall specify:

- (a) Exact location of proposed extension;
- (b) The nature of service that will be provided at the extension;
- (c) Distance of extension from bank;
- (d) Ownership of the location; and
- (e) Cost of establishing the extension, and if site is to be leased, a copy of the proposed lease agreement.

(3) For all other extensions that are not addressed in paragraphs (1) and (2), a bank must obtain prior approval from the Department by submitting a letter form application.

Cite as Ga. Comp. R. & Regs. R. 80-1-1-.07

AUTHORITY: O.C.G.A. §§ [7-1-590](#); [7-1-603](#).

HISTORY: Original Rule entitled "Standards for Consideration of Applications, Statement of Policies" was filed on July 13, 1981; effective August 2, 1981.

Amended: F. Aug. 26, 1997; eff. Sept. 15, 1997.

Amended: Rule retitled "Expansion or Extension of Banking Location" adopted. F. Jul. 14, 1998; eff. Aug. 3, 1998.

Amended: F. Jul. 12, 1999; eff. Aug. 1, 1999.

Amended: F. Dec. 6, 1999; eff. Dec. 26, 1999.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-1-1-.08 Procedures for Other Transactions, Expedited, Letter Form, and Notice Only Applications

(1) Conversion to state chartered bank. A meeting with the department should precede filing a letter form application, which application should include all of the information requested in the Applications Manual. Publication of Articles of Conversion and an investigation will be required.

(2) Reserved.

(3) Mergers. The procedure for approval of a merger involves the filing of a letter application to the Department and, if a state bank is the surviving financial institution, the publication of Articles of Merger.

(4) Change in Control:

(a) A letter form notification to the department is required, together with a copy of any federal filing.

(b) The board of directors of the financial institution subject to a change in control shall be notified of the filing of the notice with the department unless the individuals involved request that such notice be withheld and, in the opinion of the department, they give a valid reason for withholding such notice.

(5) Fiduciary Powers. A full application as detailed in the Applications Manual is required for exercise of full trust powers. Exercise of limited trust services and a single trust service requires a letter form application. Request to perform a single trust service may be expedited. No publication is required.

(6) Creation and Operation of a Subsidiary of a Bank. Code Sections [7-1-261](#) and [7-1-288](#) provide for the ability of a bank to exercise powers incidental to banking and to create a separate subsidiary to effect such powers as may be financial in nature, incidental or complementary to the provision of financial services, subject in most cases to certain investment limitations. Most require a letter form application describing the activity, how it relates to the business of banking and finance, and what protections will be in place to deal with any associated risks.

(7) Relocation and Simultaneous Redesignation of two or more banking locations.

(a) Definitions:

(i) Relocation. The location of an existing banking location is to be moved to a new or additional location which is to be constructed, purchased or leased within the same immediate vicinity of the existing branch.

(ii) Redesignation. Where two existing bank locations exchange their designations, a redesignation occurs. Under a redesignation, a branch office becomes the main office and the main office, if it is not closed, becomes a branch office.

(b) Procedure for a Relocation. A bank meeting the qualifying criteria for expedited processing in sections (1) through (4) of Rule [80-1-1-.10](#) may submit a letter form notification to relocate an existing banking location. The approval to relocate an existing banking location under the notice procedure will be effective at the earlier of: an approval letter from the department, or 10 business days from the date of acknowledged receipt. In the event the bank does not qualify for expedited processing, a form application should be submitted to the Department, which will normally be processed within 30 days from receipt of a completed application. All relocations should include a

notice to customers posted in a conspicuous place of the affected banking location as well as on the bank's website at least 30 days before relocating. In addition, if any relocation proposal involves relocation of the bank's main office, additional procedures such as amendment of the bank's Articles of Incorporation may apply.

(c) Procedure for a Redesignation. Upon receipt of a letter form request setting forth the details of the proposed redesignation, the Department will review and process such request within seven (7) days. In the event the bank intends on closing the former main office as part of a redesignation, then the closing procedures for a bank location must be followed.

(8) Changes in Capital Structure involving Stock Redemption and Conversions. Code Sections [7-1-414](#) and [7-1-419](#) should be consulted. A complete letter form application describing the transaction should be acted upon within 10 business days of receipt.

(9) Letter form applications are required for the following other activities of banks. Related Code Sections are referenced.

(a) Name reservation and permission is treated in Code Sections [7-1-130](#), [7-1-131](#), [7-1-242](#) and [7-1-243](#). The department may approve a name for a bank holding company that is not distinguishable on the records of the Secretary of State from the name of a deposit taking financial institution wholly owned by that bank holding company. If such bank holding company subsequently sells the bank with a similar name the bank holding company may retain its name only if the subject bank's name is no longer in use.

(b) Amendment of Articles of Incorporation. Part 13 of Article 2 of Title 7. Required publication shall be made in the official organ of the county where the main office of the institution is located.

(10) A bank that meets the criteria in Rule [80-1-1-.10](#) and that wishes to invest in shares of stock of a bank engaged in providing banking or other financial services to depository financial institutions, which bank's ownership consists primarily of such depository financial institutions, may do so by filing a notice with the department fully describing the transaction at least 10 days before such investment is made;

(11) A bank that meets the criteria in Rule [80-1-1-.10](#) and that wishes to invest in shares of stock of:

(a) A bank service corporation created to provide support services for one or more financial institutions; or

(b) A corporation engaged in functions or activities that the bank is authorized to carry on may take advantage of expedited processing as provided in the department's Applications Manual.

(12) Opening and closing of a representative office. Prior to opening a representative office, a Georgia state-chartered bank must register the location with the Department by filing a letter form registration with the Department. Prior to closing a representative office, a bank must post notice of the closing at such location at least 30 days in advance of the intended closure. The bank must also disclose the fact of the closure on its website at least 30 days in advance of the intended closure and such notice shall be posted for at least 30 consecutive days. Within two days of providing the notice, the bank must forward to the Department a copy of the notice posted at the representative office as well as the disclosure contained on its website to the Department.

Cite as Ga. Comp. R. & Regs. R. 80-1-1-.08

AUTHORITY: O.C.G.A. § [7-1-61](#).

HISTORY: Original Rule entitled "Other Transactions which Require Approval" adopted. F. July 14, 1998; eff. Aug. 3, 1998.

Amended: F. July 12, 1999; eff. Aug. 1, 1999.

Amended: F. Dec. 18, 2000; eff. Jan. 7, 2001.

Amended: Rule retitled "Procedures for Other Transactions, Expired, Letter Form and Notice Only Applications" adopted. F. Oct. 22, 2001; eff. Nov. 11, 2001.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-1-1-.09 Standards for Consideration of Applications Generally; Applications Manual and Statement of Policies

(1) Standards for consideration of applications whether covered under this Rule Chapter or otherwise, shall in most cases include: evaluations of financial history and condition of the applicant; adequacy of applicant capital; future earnings prospects for applicant; character, capacity and ability of applicant management; consistency of corporate powers; convenience and needs of the public; and effects on competition. Department policies in regard to such evaluations are discussed in greater detail in the Department's Statement of Policies ("Policies"), Applications Manual ("Manual"), and in instructions accompanying applications. The Manual and Policies can be obtained from the Department.

(2) If the Department of Banking and Finance notifies the applicant of deficiencies in the application, the applicant must complete the application by curing the deficiencies within thirty (30) days after receipt of such notification.

(3) An application will not be deemed to have been filed and received until such time as the required application fee, and any other unpaid fee or fine owed to the Department, has been paid and all portions of the application have been completed to the satisfaction of the Department of Banking and Finance.

(4) Decisions on applications may be conditioned and may be nullified should the Department determine that circumstances are substantially different from those upon which the decision was based.

Cite as Ga. Comp. R. & Regs. R. 80-1-1-.09

AUTHORITY: O.C.G.A. § [7-1-61](#).

HISTORY: Original Rule entitled "Standards for Consideration of Applications Generally; Applications Manual and Statement of Policies; Trust Production Office Criteria" adopted. F. July 14, 1998; eff. Aug. 3, 1998.

Amended: F. July 12, 1999; eff. Aug. 1, 1999.

Amended: F. Aug. 22, 2006; eff. Sept. 11, 2006.

Amended: F. June 15, 2015; eff. July 5, 2015.

Amended: New title "Standards for Consideration of Applications Generally; Applications Manual and Statement of Policies." F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-1-1-.10 Qualifying Criteria for Expedited Processing for Applications by a Bank Other than Charter

The following criteria, when met and certified to by an applicant bank, shall, where permitted, qualify the bank to utilize a shorter application and/or an expedited process for approval.

(1) The depository institution must be well capitalized as defined in the appropriate capital regulation and guidance of the institution's primary federal regulator;

(2) The depository institution must have received a CAMELS composite rating of "1" or "2" as a result of the most recent state or federal examination;

(3) The depository institution must have a satisfactory or better Community Reinvestment Act rating from its primary federal regulator at its most recent examination; and

(4) The depository institution must not be subject to any agreements, orders, prompt corrective action directives or other enforcement or administrative agreements with the Department or its primary federal regulator or other chartering authority.

(5) In addition, the Department may deny or remove from expedited processing any institution's application where it finds that:

(a) Safety and soundness concerns of the Department dictate a more comprehensive review;

(b) Any material adverse comment is received by the Department;

(c) Other supervisory concerns, legal issues, or policy issues come to the attention of the Department;

(d) If applicable, any acquisition of fixed assets would cause the institution to exceed the state fixed asset limitation; or

(e) Any other good cause exists for denial or removal.

In this event, the institution will be notified that expedited processing is not available, the reason, and instructions as to how to proceed.

Cite as Ga. Comp. R. & Regs. R. 80-1-1-.10

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-79](#).

HISTORY: Original Rule entitled "Qualifying Criteria for Expediting Processing for Bank Applications" adopted. F. July 14, 1998; eff. Aug. 3, 1998.

Amended: Rule retitled "Qualifying Criteria for Expediting Processing for Applications by a Bank (Other than Charter)". F. July 12, 1999; eff. Aug. 1, 1999.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-1. BANKS

Subject 80-1-5. LOANS AND DISCOUNTS

80-1-5-.02 Real Estate Loans

(1) A real estate loan (including a leasehold) within the meaning of Part 365 of the Federal Deposit Insurance Corporation's rules and regulations, including [12 CFR 365.1](#) and [365.2](#) and the Interagency Guidelines for Real Estate Lending Policies in Appendix A, and [12 C.F.R. 208.51](#) and the guidelines contained in 12 C.F.R. Part 208 in the case of Federal Reserve member banks, shall comply with the Real Estate Lending Standards of the above laws.

(2) If a loan could be made without real estate as security, a bank will not be penalized for adding real estate as collateral in an abundance of caution. A notation in the loan file must indicate this lack of reliance on the real estate and must meet general safety and soundness standards for credit risk. This does not constitute a waiver of O.C.G.A. § [7-1-285](#), related Department rules and regulations, or requirements of federal law, and the soundness of the loan should always be considered.

(3) Except as expressly authorized by O.C.G.A. §§ [7-1-262](#) or [7-1-263](#), banks may not acquire directly or indirectly any ownership interest in real estate without the prior written approval of the Department.

Cite as Ga. Comp. R. & Regs. R. 80-1-5-.02

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-286](#).

HISTORY: Original Rule entitled "Interpretations" adopted. F. and eff. June 30, 1965.

Repealed: New Rule of the same title adopted. F. June 9, 1972; eff. June 29, 1972.

Repealed: New Rule of the same title adopted. F. July 5, 1973; eff. July 25, 1973.

Repealed: New Rule entitled "Real Estate Loans" adopted. F. Aug. 28, 1975; eff. Sept. 17, 1975.

Amended: F. Jan. 31, 1978; eff. Feb. 20, 1978.

Amended: F. July 13, 1981; eff. Aug. 2, 1981.

Amended: F. Aug. 17, 1983; eff. Sept. 6, 1983.

Amended: F. June 28, 1984; eff. Aug. 1, 1984, as specified by the Agency.

Amended: F. Oct. 12, 1989; eff. Nov. 1, 1989.

Amended: F. Sept. 26, 1995; eff. Oct. 16, 1995.

Amended: F. July 14, 1998; eff. Aug. 3, 1998.

Amended: F. Dec. 18, 2000; eff. Jan. 7, 2001.

Amended: F. July 28, 2003; eff. Aug. 17, 2003.

Amended: F. Aug. 15, 2005; eff. Sept. 4, 2005.

Amended: F. Aug. 22, 2006; eff. Sept. 11, 2006.

Amended: F. Aug. 15, 2007; eff. Sept. 4, 2007.

Amended: F. Aug. 4, 2008; eff. Aug. 24, 2008.

Amended: F. June 29, 2017; eff. July 19, 2017.

Amended: F. July 9, 2019; eff. July 29, 2019.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-1. BANKS

Subject 80-1-8. DORMANT ACCOUNTS

80-1-8-.01 Dormant Accounts: Service Charges

(1) Dormant accounts are hereby defined as follows:

(a) Demand Deposit Accounts are deemed to be dormant when the depositor, which for the purposes of this rule shall include a member in the case of credit unions and a shareholder in the case of savings and loan associations, has neither increased or decreased the amount of the deposit nor corresponded with the financial institution regarding the deposit for a period of not less than twelve months immediately preceding the determination.

(b) Time and Savings Deposits, including Certificates of Deposit, are deemed to be dormant when the depositor has neither increased or decreased the amount of the deposit or shares nor corresponded with the financial institution regarding the deposit or shares for a period of not less than five (5) years from the date upon which the deposit or share first became eligible for withdrawal.

(c) Certified and Official Checks shall be deemed to be dormant when they have not been presented for payment within two (2) years of the date of issue, or if the issuing financial institution has not had correspondence with the registered owner of the check for a period of two (2) years immediately preceding the determination of dormancy.

(d) For purposes of this regulation, the term, "Demand Deposit Accounts," shall include share draft accounts in the case of credit unions, as well as any "Time" or "Savings" account which by its terms is due and payable, either in whole or in part, within less than ninety days or upon less than ninety days notice by the depositor.

(e) For purposes of this regulation, the term "corresponded" or "correspondence" includes, but is not limited to:

(i) any communication, indication of interest, or relationship set forth in O.C.G.A. § [44-12-197\(a\) \(2\)](#)-(5); or

(ii) a depositor accessing an online account.

(2) Where the signature card or other evidence of the financial institution's contractual obligation relative to a deposit account does not make provision for maintenance or service charge on a dormant account as heretofore described, such a charge may be assessed in an amount not to exceed \$5.00 per month. Service charges or maintenance charges assessed pursuant to contractual authority governing the account shall not exceed the greater of \$5.00 per month or the per month service charge which the financial institution otherwise assesses against active accounts. No service charge or maintenance charge may be assessed for the dormancy period beyond the first twelve months. No service charge or maintenance charge may be assessed unless the financial institution provides written notice prior to the initial imposition of the charges pursuant to O.C.G.A. § [44-12-197\(c\)\(1\)](#). Dormant account service charge or maintenance charge may be charged against the account at any time prior to escheat of the account balance under the provisions of the Disposition of Unclaimed Properties Act so long as the total service charge or maintenance charge does not exceed the amount which could have been assessed during the first twelve months of dormancy pursuant to the governing contract between the parties or this regulation.

Cite as Ga. Comp. R. & Regs. R. 80-1-8-.01

AUTHORITY: O.C.G.A. § [7-1-61](#).

HISTORY: Original Rule entitled "Dormant Bank Accounts" adopted. F. Apr. 21, 1966; eff. May 10, 1966.

Repealed: New Rule entitled "Dormant Accounts: Service Charges" adopted. F. June 9, 1972; eff. Jan. 1, 1973, as specified by the Agency.

Amended: Authority changed. F. Aug. 28, 1975; eff. Sept. 17, 1975.

Amended: F. July 13, 1981; eff. Aug. 2, 1981.

Amended: F. June 28, 1984; eff. Aug. 1, 1984, as specified by the Agency.

Amended: F. July 28, 2003; eff. Aug. 17, 2003.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-1. BANKS

Subject 80-1-10. FIXED ASSETS AND ASSETS ACQUIRED D.P.C

80-1-10-.09 Assets Acquired - Debts Previously Contracted ("D.P.C.")

(1) All assets acquired through foreclosure or in lieu of foreclosure and all "Other Real Estate" acquired in such manner or otherwise shall be valued six (6) months prior to or three (3) months following the acquisition by an independent appraiser knowledgeable in the fair market value of such assets or, in the alternative, evaluated by a qualified officer of the bank in conformity with the Evaluation Content portion of the Interagency Appraisal and Evaluation Guidelines (hereinafter "evaluation") if the book value of the property is less than two (2) percent of the statutory capital base of the bank, \$400,000 for residential property, or \$500,000 for commercial property whichever amount is greater. Appraisals or evaluations subsequent to the initial valuation are required if, based upon a review of the following factors, there is a reasonable basis to determine that the prior valuation is no longer reliable as a reasonable estimate of the property's fair market value: volatility of local market; changes in terms and availability of financing; natural disasters; limited or over supply of competing properties; improvements to the subject property or competing properties; lack of maintenance of the subject or competing properties; changes in underlying economic and market assumptions, such as capitalization rates and lease terms; changes in zoning, building materials, or technology; and environmental contamination. In the event there is no basis to determine that the initial valuation is no longer reliable, then appraisals or evaluations shall be at intervals of not more than five (5) years.

(2) All requests for permission to hold assets acquired through foreclosure or in lieu of foreclosure and to hold other types of "Other Real Estate" beyond limitations imposed by statute must include a statement as to efforts made to dispose of the asset, reasons for the failure of such efforts, plans for disposal of the asset during the extended ownership period, a copy of the most recent appraisal or evaluation, and a statement as to the estimated annual cost of carrying the asset and estimated annual income produced by the asset.

(3) Extension of statutory ownership periods will not be granted for income purposes.

(4) Property subject to this rule shall be initially carried on the books of the bank at the fair market value determined by independent appraisal or evaluation, unless otherwise provided, less the estimated costs to sell the property ("new basis"). This valuation shall be determined as of the date the bank takes legal title to or physical possession of the property, whichever event occurs first. Subsequently, the carrying value shall be subject to write-down or write-up based upon the most recent appraisal or evaluation. However, the property must be carried at the lower of the current fair market value less the estimated costs to sell the property or the new basis. The new basis may be adjusted upward in the event the bank makes any permanent capital improvements, subject to the limitations in paragraph (5), necessary to prepare the property for sale but the adjustment in the new basis shall be the lower of the increase in the fair market value of the property after the capital improvements or the amount expended to make the capital improvements. Non-capital improvements and expenses necessary to carrying and maintaining the property (taxes, legal fees, insurance, yard maintenance, etc.) shall be expenses and not added to the carrying value. Income earned from the property, other than from conversion or sale, shall be credited to income and shall not reduce the carrying value of the property.

(5) A bank may make permanent capital improvements to property subject to this rule if the improvements are:

(a) Reasonably calculated to reduce any shortfall between the property's fair market value and the bank's investment in the property;

(b) Not made for the purpose of speculation; and

(c) Consistent with safe and sound banking practices.

(6) Appraisals or evaluations obtained pursuant to this rule shall be for the purpose of determining the current fair market value of the property. Appraisals found to reflect other than current fair market value or found to have been performed by persons unfamiliar with such class of property or lacking independence from the owner of such property may be rejected by the Department and new appraisals required. Evaluations found to reflect other than current fair market value or found to have been performed by persons unfamiliar with such class of property or lacking independence (where required) from the owner of such property may be rejected by the Department and new evaluations or appraisals required.

Cite as Ga. Comp. R. & Regs. R. 80-1-10-.09

AUTHORITY: O.C.G.A. § [7-1-61](#).

HISTORY: Original Rule was filed on January 31, 1978; effective February 20, 1978.

Amended: F. Mar. 3, 2011; eff. Mar. 23, 2011.

Amended: Title changed to "Assets Acquired - Debts Previously Contracted ("D.P.C.')." F. Jun. 10, 2014; eff. Jun. 30, 2014.

Amended: F. June 29, 2017; eff. July 19, 2017.

Amended: F. June 27, 2018; eff. July 17, 2018.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-1-10-.10 Bank as a Lessor of Real Estate

(1) Pursuant to O.C.G.A. § [7-1-261\(a\)\(1\)](#), a bank may acquire and hold real estate the bank occupies or intends to occupy primarily for the transaction of its business or the business of any subsidiary or affiliate. Subject to compliance with the provisions of this rule as well as the Department's prior written approval, a bank may lease excess real estate.

(2) For purposes of this rule, the phrase "occupy primarily" means occupation and use, on a full-time basis, of at least sixty-seven (67) percent of the square footage of each individual premise by the bank or an affiliate or subsidiary of the bank.

(3) The underlying real estate must have been acquired in good faith and for permissible purposes. Nothing herein shall be deemed to authorize a bank to acquire real estate for speculative purposes.

(4) The bank may not lease real estate to a third-party if it raises safety and soundness concerns.

(5) The application for approval to lease real estate to a third-party shall contain, at a minimum, the following information:

(a) A detailed description of the lease that is contemplated, including but not limited to, the terms of the lease, a description of the proposed lessee's operations, the relationship, if any, between the bank and the proposed lessee, the real estate that is proposed to be leased, and the percentage of the real estate that will be occupied by lessee;

(b) The total amount of the bank's fixed assets that will be leased in the event the lease is approved;

(c) An affirmative statement that there is no involvement by any director, committee member, officer or employee of the bank or any related interest of such individuals with the individual or entity that is the proposed lessee. In the event there is any such involvement, then it should be detailed in the application; and

(d) A copy of the resolution adopted by the Board of Directors authorizing the lease of the specific premises to the proposed lessee.

Cite as Ga. Comp. R. & Regs. R. 80-1-10-.10

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-262](#).

HISTORY: Original Rule entitled "Bank as a Lessor of Real Estate" adopted. F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-1. BANKS

Subject 80-1-12. DIVIDENDS, MANAGEMENT FEES, ETC

80-1-12-.01 Dividends

(1) The Board of Directors of any state-chartered bank in this State may declare and the bank may pay dividends on its outstanding capital stock without any requirement to notify the Department or request the approval of the Department under the following conditions:

(a) Total classified assets at the most recent examination of the bank, the conclusions of which may have been presented to the Board of Directors, do not exceed eighty (80) percent of Tier 1 Capital plus the Allowance for Loan Losses as reflected at such examination; and

(b) The aggregate amount of dividends declared or anticipated to be declared in the calendar year:

(i) does not exceed fifty (50) percent of the net income that is attributable to the bank that is a Subchapter C-Corporation for the previous calendar year as reported on the Consolidated Reports of Income, Schedule RI-Income Statement; or

(ii) does not exceed seventy-five (75) percent of the net income that is attributable to the bank that is a Subchapter S-Corporation for the previous calendar year as reported on the Consolidated Reports of Income, Schedule RI-Income Statement; and

(c) The ratio of Tier 1 Capital to Adjusted Total Assets shall not be less than six (6) percent.

(2) Any dividend to be declared by the Board of Directors of a bank at a time when each of the foregoing conditions does not exist must be approved, in writing, by the Department prior to the payment thereof pursuant to the provisions of Section [7-1-460\(a\)\(3\)](#) of the Code of Georgia. Requests for approval of dividends shall be on forms prescribed by the Department.

(3) The definition of Tier 1 Capital and Adjusted Total Assets as used herein shall be consistent with the definition contained in the Statement of Policies of the Department and the definition utilized by the Federal Regulatory Agencies.

Cite as Ga. Comp. R. & Regs. R. 80-1-12-.01

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-460](#).

HISTORY: Original Rule entitled "Dividends" adopted. F. May 1, 1975; eff. May 21, 1975.

Repealed: New Rule of the same title adopted. F. Mar. 23, 1982; eff. Apr. 12, 1982.

Amended: F. July 14, 1998; eff. Aug. 3, 1998.

Amended: F. Dec. 18, 2000; eff. Jan. 7, 2001.

Amended: F. Aug. 29, 2014; eff. Sep. 18, 2014.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-1. BANKS

Subject 80-1-15. EXTENSIONS OF EXISTING OFFICES AND FACILITIES

80-1-15-.01 Automated Teller Machine ("ATM") and Night Depository

(1) An ATM machine, which by definition in O.C.G.A. § [7-1-603](#) takes deposits, and a night depository may be established anywhere in this state. Establishment of an ATM machine in this state does not constitute doing a banking business here.

(2) Combinations of facilities such as a loan production office, deposit production office and an ATM or cash dispensing machine are permitted.

Cite as Ga. Comp. R. & Regs. R. 80-1-15-.01

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-603](#).

HISTORY: Original Rule entitled "Emergency Acquisitions and Consolidations Involving a Financial Institution in Danger of Failing or a Failed Financial Institution" adopted as ER. 80-1-15-0.5-.01. F. June 30, 1978; eff. June 29, 1978, the date of adoption.

Amended: ER. 80-1-15-0.7-.01 adopted. F. Jan. 9, 1979; eff. Jan. 4, 1979, the date of adoption.

Amended: ER. 80-1-15-0.8-.01 adopted. F. and eff. Mar. 17, 1981, the date of adoption.

Amended: ER. 80-1-15-0.9-.01 adopted. F. June 1, 1983; eff. May 31, 1983, the date of adoption.

Amended: New Rule entitled "Definitions" adopted. F. July 7, 1988; eff. July 27, 1988.

Amended: Rule retitled "Automated Teller Machine ("ATM")". F. Sept. 26, 1995; eff. Oct. 16, 1995.

Amended: Rule retitled "Automated Teller Machine ("ATM") and Night Depository". F. Aug. 26, 1997; eff. Sept. 15, 1997.

Amended: F. July 28, 2003; eff. Aug. 17, 2003.

Amended: F. Sept. 1, 2004; eff. Sept. 21, 2004.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-1-15-.02 Mobile Banking Units

(1) Banks may provide unlimited banking services through mobile banking units that do not have a single, permanent site and use a vehicle that travels to various locations to enable customers to conduct the business of banking.

(2) A mobile branch may provide banking services at various regularly scheduled locations or it may be open in a defined area at varying times and locations. If the mobile branch provides banking services at regularly scheduled locations, then it shall be accessible to banking customers in accordance with a published schedule available on the bank's website. In all circumstances, each mobile branch is required to maintain logs indicating the specific locations and times in which the mobile unit is operating in order to track branch activities.

(3) Each bank providing mobile banking unit services shall carry adequate fidelity, robbery, and hazard insurance coverage commensurate with the risks associated with the operation of such units.

(4) Disclosures shall be given to all customers regarding when deposits will be credited and when checks or other withdrawals will be debited.

(5) Since a mobile unit will function as a branch, application for approval must be made as it is for all other branches.

(6) Banks may alter the banking service area set forth in paragraph 2 of this Rule by submitting advance written notification to the Department.

Cite as Ga. Comp. R. & Regs. R. 80-1-15-.02

AUTHORITY: O.C.G.A. § [7-1-602](#).

HISTORY: Original Rule entitled "Procedures" adopted as ER. 80-1-15-0.7-.02. F. Jan. 9, 1979; eff. Jan. 4, 1979, the date of adoption.

Amended: ER. 80-1-15-0.8-.02 adopted. F. and eff. Mar. 17, 1981, the date of adoption.

Amended: New Rule entitled "Mobile Banking Units" adopted. F. July 7, 1988; eff. July 27, 1988.

Amended: F. Aug. 26, 1997; eff. Sept. 15, 1997.

Amended: F. July 14, 1998; eff. Aug. 3, 1998.

Amended: F. July 12, 1999; eff. Aug. 1, 1999.

Amended: F. July 9, 2019; eff. July 29, 2019.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-1-15-.03 Messenger Services

(1) For purposes of this Rule, the below terms shall be defined as follows:

(a) "Branching" shall mean the receipt of deposits, payment of checks, or lending of money.

(b) "Messenger service" shall mean any service used by a bank and its customers to pick up from and deliver to, specific customers at locations such as their homes or offices, items related to transactions between the bank and such customers.

(2) Banks may establish and operate a messenger service or use, with its customers, a third-party messenger service. Banks may use the messenger service to transport items related to the bank's transactions with its customers without the messenger service being approved as a branch provided that the messenger service does not perform any branching functions. In establishing or using such a messenger service, a bank must establish terms and conditions in order to ensure compliance with this Rule and safe and sound banking practices.

(3) Banks may use, with its customers, a messenger service to pick up from, and deliver to, customers items related to branching functions without the messenger service being approved as a branch so long as the messenger service is established and operated by a third-party. Under no circumstance will such messenger service be authorized to perform branching functions. In using such a messenger service, the bank must establish terms and conditions in order to ensure compliance with this Rule and safe and sound banking practices.

(4) The Department will review the facts and circumstances and determine whether a messenger service is established by a third-party. However, a messenger service will always be established by a third party if:

(a) A party other than the bank owns the messenger service and its facilities (or rents these from a party other than the bank), and who employs the personnel engaged in the provision of the service;

(b) The party retains ultimate discretion as to the limits of the geographic area and the customers it will serve;

(c) The party maintains ultimate responsibility over its scheduling and routing;

(d) The party operates under a separate name from the bank and does not advertise the service as being provided by the bank;

(e) The party assumes full responsibility for all items in transit, including the provision of adequate insurance to cover employee fidelity and any other losses while items are in the custody and control of the party; and

(f) The party acts as the agent for the customer while the items are picked-up, transported, and delivered.

(5) (a) The bank may defray all or part of the costs incurred by the customer for use of the messenger service, consistent with safety and soundness and prudent fiscal policy. Any payment by the bank may not exceed the actual charge for the services rendered.

(b) The bank shall deem items for deposit to be received by the bank at the time they are credited to the customer's account at the bank or a branch office.

(c) The bank shall deem items representing withdrawals to be paid when the items are delivered to the messenger service.

(6) Banks may provide messenger services for the pick-up and delivery of items related to or not related to branching. They may do so by establishing their own service or by use of a third-party service. Such services may be provided anywhere and will not be considered branching.

Cite as Ga. Comp. R. & Regs. R. 80-1-15-.03

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-602](#).

HISTORY: Original Rule entitled "Courier Services" adopted. F. July 7, 1988; eff. July 27, 1988.

Amended: F. Sept. 26, 1995; eff. Oct. 16, 1995.

Amended: F. July 12, 1999; eff. Aug. 1, 1999.

Amended: F. Aug. 15, 2007; eff. Sept. 4, 2007.

Amended: New title "Messenger Services." F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-1-15-.04 Account Service Representatives

Banks lawfully doing a banking business in Georgia may provide for account service representatives to visit public events and commercial locations including governmental, educational, and health facilities for the purpose of

opening deposit accounts and providing services incidental thereto; provided, access to such locations and facilities is available to other financial institutions on a nondiscriminatory basis. Account paying and receiving services may not be provided during such visits other than an initial deposit to a new account.

Cite as Ga. Comp. R. & Regs. R. 80-1-15-.04

AUTHORITY: O.C.G.A. § [7-1-602](#).

HISTORY: Original Rule entitled "Account Service Representatives" adopted. F. July 7, 1988; eff. July 27, 1988.

Amended: F. Aug. 26, 1997; eff. Sept. 15, 1997.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-1-15-.05 School Savings and Banking Education Programs

Banks lawfully doing a banking business in Georgia may participate in school savings and banking education programs, where such programs: are provided for minors in order to promote thrift or to provide banking and financial education; are supervised by a school official or an organization affiliated with the school on school premises or at a facility utilized by the school; and are in a location where the bank would otherwise be authorized to have a branch. School savings program deposits are not considered received until they have been delivered to a representative of and at the participating bank. Under a school savings program, checks are not considered paid until received by the participating bank either directly or through a messenger acting as agent for the customer. These programs shall not be considered a branch office, provided the above provisions are met.

Cite as Ga. Comp. R. & Regs. R. 80-1-15-.05

AUTHORITY: O.C.G.A. §§ [7-1-241](#); [7-1-261](#).

HISTORY: Original Rule entitled "School Savings and Banking Education Programs" adopted. F. July 14, 1998; eff. Aug. 3, 1998.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-2. RULES OF DEPARTMENT OF BANKING AND FINANCE CREDIT UNIONS

Subject 80-2-4. INVESTMENT OF CREDIT UNION FUNDS

80-2-4-.05 Credit Union as a Lessor of Real Estate

(1) Pursuant to O.C.G.A. § [7-1-650\(8\)\(A\)](#), a credit union may purchase, hold, and convey real estate the credit union occupies or intends to occupy primarily for the transaction of its business. Subject to compliance with the provisions of this rule as well as the Department's prior written approval, a credit union may lease excess real estate.

(2) For purposes of this rule, the phrase "occupy primarily" means occupation and use, on a full-time basis, of at least sixty-seven (67) percent of the square footage of each individual premise by the credit union or by a credit union and a wholly owned subsidiary of the credit union.

(3) The underlying real estate must have been acquired in good faith for permissible purposes and with the intent of providing services to the credit union's members. Nothing herein shall be deemed to authorize a credit union to acquire real estate for speculative purposes.

(4) The credit union may not lease real estate to a third-party if it raises safety and soundness concerns.

(5) The application for approval to lease real estate to a third-party shall contain, at a minimum, the following information:

(a) A detailed description of the lease that is contemplated, including but not limited to, the terms of the lease, a description of the proposed lessee's operations, the relationship, if any, between the credit union and the proposed lessee, the real estate that is proposed to be leased, and the percentage of the real estate that will be occupied by lessee;

(b) The total amount of the credit union's fixed assets that will be leased in the event the lease is approved;

(c) An affirmative statement that there is no involvement by any director, committee member, officer or employee of the credit union or any related interest of such individuals with the individual or entity that is the proposed lessee. In the event there is any such involvement, then it should be detailed in the application; and

(d) A copy of the resolution adopted by the Board of Directors authorizing the lease of the specific premises to the proposed lessee.

Cite as Ga. Comp. R. & Regs. R. 80-2-4-.05

AUTHORITY: O.C.G.A. § [7-1-61](#).

HISTORY: Original Rule entitled "Credit Union as a Lessor of Real Estate" adopted. F. June 27, 2018; eff. July 17, 2018.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-2-4-.08 Application or Notice Requirements for Branch Offices

(1) Branch offices may be established with the prior approval of the Department by regular application or by expedited application for certain qualified credit unions as provided in paragraph (3).

(2) Unless the provisions related to an expedited application in paragraph (3) is satisfied, a credit union must submit an application to the Department in order to obtain approval to establish a branch office. An application will not be deemed to have been accepted by the Department until all portions of the application have been completed to the satisfaction of the Department. If the Department notifies the credit union of deficiencies in the application, the credit union must complete the application within thirty (30) days of receipt of the notification of the Department. The Department will approve or deny an application for a branch office within thirty (30) days of receipt of a completed application.

(3) In lieu of an application, a credit union is authorized to submit an expedited application to establish a new branch office subject to the below conditions.

(a) The credit union must meet the following criteria:

(i) The credit union must be well capitalized as defined by the capital requirements of the Department and the NCUA;

(ii) The credit union must have received a CAMELS composite rating of "1" or "2" as a result of the most recent state or federal examination;

(iii) The credit union must not be subject to any agreements, orders, or other enforcement or administrative agreements with the Department or the NCUA; and

(iv) Total investments in fixed assets do not exceed sixty (60) percent of total equity capital and reserves (excluding the allowance for loan losses).

(b) The expedited application must include the following:

(i) The physical address of the branch office;

(ii) A statement regarding whether or not an insider is involved in the acquisition, construction, or leasing of the property;

(iii) The anticipated fixed asset investment for this proposal and whether the credit union will be in compliance with Rule [80-2-4-.02](#); and

(iv) A statement certifying that the credit union qualifies for expedited processing under subparagraph (a).

(c) Unless it has previously issued an approval letter under subparagraph (d), the Department will attempt to acknowledge receipt of an expedited application or notify the applicant that it does not qualify for expedited processing and may submit an application for regular processing within two business days of receipt of such notice.

(d) The approval to establish a branch office will be effective at the earlier of the approval letter from the Department or 10 business days from the date of acknowledged receipt.

(e) Notwithstanding the above, the Department may deny or remove from expedited processing any credit union's application where it finds that:

(i) Safety and soundness concerns of the Department dictate a more comprehensive review;

(ii) Any material adverse comment is received by the Department;

- (iii) Other supervisory concerns, legal issues, or policy issues come to the attention of the Department;
- (iv) If applicable, any acquisition of fixed assets would cause the institution to exceed the fixed asset limitation; or
- (v) Any other good cause exists for denial or removal.

In this event, the credit union will be notified that expedited processing is not available, the reason, and instructions as to how to proceed.

Cite as Ga. Comp. R. & Regs. R. 80-2-4-.08

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-79](#); [7-1-655](#).

HISTORY: Original Rule entitled "Application or Notice Requirements for Branch Offices" adopted. F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-2-4-.09 Relocation or Simultaneous Redesignation of Two or More Credit Union Locations

(1) Definitions:

(a) Relocation. The location of an existing branch location is to be moved to a new or additional location which is to be constructed, purchased or leased within the same immediate vicinity of the existing branch.

(b) Redesignation. Where two existing credit union locations exchange their designations, a redesignation occurs. Under a redesignation, a branch office becomes the main office and the main office, if it is not closed, becomes a branch office.

(2) Procedure for a Relocation. A credit union meeting the qualifying criteria for expedited processing in sections (3) of Rule 80-2-4-.08 may submit a letter form notification to relocate an existing branch or main office location. The approval to relocate such existing location under the notice procedure will be effective at the earlier of: an approval letter from the department, or 10 business days from the date of acknowledged receipt. In the event the credit union does not qualify for expedited processing, a form application should be submitted to the Department, which will normally be processed within 30 days from receipt of a completed application. All relocations should include a notice to members posted in a conspicuous place of the affected location as well as on the credit union's website at least 30 days before relocating. In addition, if any relocation proposal involves relocation of the credit union's main office, additional procedures such as amendment of the credit union's Articles of Incorporation may apply.

(3) Procedure for a Redesignation. Upon receipt of a letter form request setting forth the details of the proposed redesignation, the Department will review and process such request within seven (7) days. In the event the credit union intends on closing the former main office as part of a redesignation, then the closing procedures for a branch location must be followed.

Cite as Ga. Comp. R. & Regs. R. 80-2-4-.09

AUTHORITY: O.C.G.A. § [7-1-61](#).

HISTORY: Original Rule entitled "Relocation or Simultaneous Redesignation of Two or More Credit Union Locations" adopted. F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-2. RULES OF DEPARTMENT OF BANKING AND FINANCE CREDIT UNIONS

Subject 80-2-11. EXTENSIONS OF EXISTING OFFICES AND FACILITIES; AUXILIARY SERVICES

80-2-11-.01 Automated Teller Machine ("ATM") and Night Depository

An ATM machine, which by definition in O.C.G.A. § [7-1-664](#) takes deposits, and a night depository may be established anywhere in this state. Establishment of an ATM machine in this state does not constitute doing a banking business here.

Cite as Ga. Comp. R. & Regs. R. 80-2-11-.01

AUTHORITY: O.C.G.A. § [7-1-664](#).

HISTORY: Original Rule entitled "Expansion of Credit Union Fixed Assets; Letter Form Application and Regular Form Application; Requirements" adopted. F. Dec. 18, 2000; eff. Jan 7, 2001.

Repealed: F. Oct. 22, 2001; eff. Nov. 11, 2001.

Adopted: New Rule entitled "Automated Teller Machine ("ATM") and Night Depository." F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-2-11-.02 Mobile Credit Union Units

(1) A credit union may provide unlimited banking services through mobile credit union units that do not have a single, permanent site and use a vehicle that travels to various locations to enable members to conduct the business of banking.

(2) A mobile branch may provide banking services at various regularly scheduled locations or it may be open in a defined area at varying times and locations. If the mobile branch provides banking services at regularly scheduled locations, then it shall be accessible to credit union members in accordance with a published schedule available on the credit union's website. In all circumstances, each mobile branch is required to maintain logs indicating the specific locations and times in which the mobile unit is operating in order to track branch activities.

(3) Each credit union providing mobile credit union unit services shall carry adequate fidelity, robbery, and hazard insurance coverage commensurate with the risks associated with the operation of such units.

(4) Disclosures shall be given to all members regarding when deposits will be credited and when checks or other withdrawals will be debited.

(5) Since a mobile unit will function as a branch, application for approval must be made as it is for all other branches.

(6) Credit unions may alter the banking service area set forth in paragraph 2 of this Rule by submitting advance written notification to the Department.

Cite as Ga. Comp. R. & Regs. R. 80-2-11-.02

AUTHORITY: O.C.G.A. § 7-1-665.

HISTORY: Original Rule entitled "Mobile Credit Union Units" adopted. F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-2-11-.03 Account Service Representatives

Credit unions lawfully doing a banking business in Georgia may provide for account service representatives to visit public events and commercial locations including governmental, educational, and health facilities for the purpose of opening deposit accounts and providing services incidental thereto; provided, access to such locations and facilities is available to other credit unions on a nondiscriminatory basis. Account paying and receiving services may not be provided during such visits other than an initial deposit to a new account.

Cite as Ga. Comp. R. & Regs. R. 80-2-11-.03

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-241](#).

HISTORY: Original Rule entitled "Account Service Representatives" adopted. F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-2-11-.04 School Savings and Banking Education Programs

Credit unions lawfully doing a banking business in Georgia may participate in school savings and banking education programs, where such programs: are provided for minors in order to promote thrift or to provide banking and financial education; are supervised by a school official or an organization affiliated with the school on school premises or at a facility utilized by the school; and are in a location where the credit union would otherwise be authorized to have a branch. School savings program deposits are not considered received until they have been delivered to a representative of and at the participating credit union. Under a school savings program, checks are not considered paid until received by the participating credit union either directly or through a messenger acting as agent for the customer. These programs shall not be considered a branch office, provided the above provisions are met.

Cite as Ga. Comp. R. & Regs. R. 80-2-11-.04

AUTHORITY: O.C.G.A. §§ [7-1-241](#); [7-1-650](#).

HISTORY: Original Rule entitled "School Savings and Banking Education Programs" adopted. F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-2-11-.05 Expansion or Extension of Branch Location

(1) No notification is necessary for an extension that is an ATM, cash dispensing machine, night depository or point of sale terminal.

(2) If any other extension is located within the boundary lines of a single contiguous area of property owned or leased by the credit union and used as a branch location or if it is within 200 yards of such branch location, then the credit union must provide written notice to the Department of such extension. Such notification shall be in letter form and shall specify:

- (a) Exact location of proposed extension;
- (b) The nature of service that will be provided at the extension;
- (c) Distance of extension from credit union;

(d) Ownership of the location; and

(e) Cost of establishing the extension, and if site is to be leased, a copy of the proposed lease agreement.

(3) For all other extensions that are not addressed in paragraphs (1) and (2), a credit union must obtain prior approval from the Department by submitting a letter form application.

Cite as Ga. Comp. R. & Regs. R. 80-2-11-.05

AUTHORITY: O.C.G.A. § [7-1-664](#).

HISTORY: Original Rule entitled "Expansion or Extension of Branch Location" adopted. F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-2. RULES OF DEPARTMENT OF BANKING AND FINANCE CREDIT UNIONS

Subject 80-2-12. CREDIT UNION LOANS

80-2-12-.01 Loans Generally, Interpretations and Rulings

(1) Lending limitations of Code Section [7-1-658](#) shall be computed quarterly as reported on the credit union's most recently filed call report; provided, however, that if significant capital changes occur after the filing of the call report which causes the net worth of the credit union to increase or decrease by 5 percent or more, then the legal lending limit will be immediately recalculated at the time of the capital change and it will be effective until the filing of the next call report. In determining whether the net worth capital has increased or decreased by 5 percent or more, each credit union will utilize the dollar amount reported on the applicable call report and recalculate its net worth if the dollar amount increases or decreases by 5 percent or more during the applicable time period.

(2) Where the lending limitations are reduced by recalculation, existing debt which was in conformity with the legal limitations at the time it originated shall not be construed to be non-conforming with new legal limitations.

(3) "Indirect" loans as used in Code Section [7-1-658](#) shall mean loans made for the substantial benefit of a third party where repayment of the loan is dependent on activities of the third party rather than solely dependent on the resources of the borrower and subject to the provisions of Rule 80-2-12-.05.

(4) Loans by a credit union to any wholly-owned subsidiary of the credit union, which subsidiary is located within an approved office of the credit union and which has agreed to abide by all laws, rules and regulations applicable to the credit union shall be exempt from the twenty-five (25) percent maximum lending limit of the credit union.

(5) Wherever approval of the Board of Directors or Credit Committee is required, such approval must be a specific, prior, and written approval of each extension of credit, except that advances made under a master note covering a specific purpose or project need not receive specific approval where such approval was accorded the master note. Annual approval of a line of credit may be used where interest rate, repayment terms, and anticipated collateral are clearly identified and current credit information is on file. Commodity, floor-plan and discount lines of credit which are anticipated to exceed five (5) percent of the legal lending limit may be approved annually to be deemed appropriate by the Board of Directors without each transaction receiving specific prior approval.

(6) In determining whether or not a loan in excess of the five (5) percent limitation is secured by "good collateral and other ample security," the lack of a perfected lien, inadequate insurance, and insufficient margins between collateral value and the amount of the loan shall be prima facie evidence of inadequate security to the debt.

(7) A borrower's savings accounts or certificate of deposits in the lending credit union will be regarded as collateral to a loan when they are not subject to check or withdrawal, mature on or after the loan which is secured, are under the sole control of the credit union, and are properly assigned. Where, according to the terms of the deposit contract, the deposit is eligible for withdrawal before the secured loan matures, the credit union must establish internal procedures to prevent release of the security without the lending credit union's prior consent. If proper procedures are in place, such deposits will be considered as collateral. Where deposit balances are properly taken as collateral to a loan, the loan may be reduced to the extent of the deposit in determining the amounts loaned for either secured or unsecured legal lending limitations, as applicable.

(8) In determining the primary collateral basis upon which a loan is granted, that portion of the collateral having the greatest market value shall be assumed to be the primary collateral.

(9) In determining amounts loaned, all amounts guaranteed or insured by any instrumentality of the United States government shall be deducted to the extent of the guaranty or insurance coverage. Immediate and deferred participations on loans by an instrumentality of the United States government shall also be excluded. Where the source of repayment of a loan, i.e. lease payments, is guaranteed by an instrumentality of the United States government and such guarantee is assignable and has been assigned to the credit union, such loan may be excluded to the extent of the guarantee.

(10) Except as provided in this paragraph, exposures in the form of insufficient funds checks held beyond the permissible return date and overdrafts shall be considered "extensions of credit" solely for the purpose of determining compliance with the legal limitation as it applies to the maker of the check or owner of the overdraft. Such exposures shall also be subject to the requirements for prior written approval and ample collateral where the total indebtedness of the borrower exceeds five (5) percent of the credit union's net worth. Such exposures will not be considered extensions of credit for purposes of compliance with the above legal loan limitations and requirements, provided that the exposure is inadvertent, which requires that:

(a) The extension(s) do not exceed the aggregate amount of \$1,000 at any one time; and

(b) The account is not overdrawn or the insufficient funds check held for more than five business days.

(11) Extensions of credit to political subdivisions of the State of Georgia authorized to levy taxes or backed by the taxing authority of another political subdivision shall qualify for exemption from the twenty-five (25) percent loan limitation under the provisions of O.C.G.A. § [7-1-658\(g\)](#), only where such extension of credit otherwise conforms with the provisions of Georgia Constitution, Article 9, Section 5.

(12) Pursuant to O.C.G.A. § [7-1-658\(h\)](#), a loan or extension of credit to a leasing company for the purpose of purchasing equipment for lease shall be considered a loan to the lessee, provided that:

(a) The credit union documents the basis for its reliance on the lessee as the primary source of repayment before the loan is extended to the leasing company;

(b) The loan is made without recourse to the leasing company;

(c) The credit union receives a security interest in the equipment and, in the event of default, may proceed directly against the equipment and the lessee for any deficiency resulting from the sale of the equipment;

(d) The leasing company assigns all of its rights under the lease to the credit union;

(e) The lessee's lease payments are assigned and paid to the credit union directly by the lessee; and

(f) The lease terms are subject to the same limitations that would apply to a credit union acting as a lessor.

(13) The Department shall promulgate a form which may be used to document compliance with the requirements for approval of loans and obligations in excess of 5 percent of the net worth of the credit union by members of the board of directors or credit committee as set forth in O.C.G.A. § [7-1-658\(e\)](#).

Cite as Ga. Comp. R. & Regs. R. 80-2-12-.01

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-658](#).

HISTORY: Original Rule entitled "Loans Generally, Interpretations and Rulings" adopted. F. Aug. 15, 2007; eff. Sept. 4, 2007.

Note: Correction of typographical error in Rule title on SOS Rules and Regulations website. In accordance with the Official Compilation Rules and Regulations of the State of Georgia (as published September 4, 2007), "Loan

Generally, Interpretations and Rulings" corrected to "Loans Generally, Interpretations and Rulings." Effective July 17, 2018.

Amended: F. June 27, 2018; eff. July 17, 2018.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-2-12-.04 Assets Acquired - Debts Previously Contracted ("D.P.C.")

(1) All assets acquired through foreclosure or in lieu of foreclosure and all "Other Real Estate" acquired in such manner or otherwise shall be valued six (6) months prior to or three (3) months following the acquisition by an independent appraiser knowledgeable in the fair market value of such assets or, in the alternative, evaluated by a qualified officer of the credit union in conformity with the Evaluation Content portion of the Interagency Appraisal and Evaluation Guidelines (hereinafter "evaluation") if the book value of the property is less than two (2) percent of the net worth and allowance for loan and lease losses of the credit union, \$400,000 for residential property, or \$500,000 for commercial property whichever amount is greater. Appraisals or evaluations subsequent to the initial valuation are required if, based upon a review of the following factors, there is a reasonable basis to determine that the prior valuation is no longer reliable as a reasonable estimate of the property's fair market value: volatility of local market; changes in terms and availability of financing; natural disasters; limited or over supply of competing properties; improvements to the subject property or competing properties; lack of maintenance of the subject or competing properties; changes in underlying economic and market assumptions, such as capitalization rates and lease terms; changes in zoning, building materials, or technology; and environmental contamination. In the event there is no basis to determine that the initial valuation is no longer reliable, then appraisals or evaluations shall be at intervals of not more than five (5) years.

(2) All requests for permission to hold assets acquired through foreclosure or in lieu of foreclosure and to hold other types of "Other Real Estate" beyond limitations imposed by statute must include a statement as to efforts made to dispose of the asset, reasons for the failure of such efforts, plans for disposal of the asset during the extended ownership period, a copy of the most recent appraisal or evaluation, and a statement as to the estimated annual cost of carrying the asset and estimated annual income produced by the asset.

(3) Extension of statutory ownership periods will not be granted for income purposes.

(4) Property subject to this rule shall be initially carried on the books of the credit union at the fair market value determined by independent appraisal or evaluation, unless otherwise provided, less the estimated costs to sell the property ("new basis"). This valuation shall be determined as of the date the credit union takes legal title to or physical possession of the property, whichever event occurs first. Subsequently, the carrying value shall be subject to write-down or write-up based upon the most recent appraisal or evaluation. However, the property must be carried at the lower of the current fair market value less the estimated costs to sell the property or the new basis. The new basis may be adjusted upward in the event the credit union makes any permanent capital improvements, subject to the limitations in paragraph (5), necessary to prepare the property for sale but the adjustment in the new basis shall be the lower of the increase in the fair market value of the property after the capital improvements or the amount expended to make the capital improvements. Non-capital improvements and expenses necessary to carrying and maintaining the property (taxes, legal fees, insurance, yard maintenance, etc.) shall be expenses and not added to the carrying value. Income earned from the property, other than from conversion or sale, shall be credited to income and shall not reduce the carrying value of the property.

(5) A credit union may make permanent capital improvements to property subject to this rule if the improvements are:

- (a) Reasonably calculated to reduce any shortfall between the property's fair market value and the credit union's investment in the property;
- (b) Not made for the purpose of speculation; and
- (c) Consistent with safe and sound banking practices.

(6) Appraisals or evaluations obtained pursuant to this rule shall be for the purpose of determining the current fair market value of the property. Appraisals found to reflect other than current fair market value or found to have been performed by persons unfamiliar with such class of property or lacking independence from the owner of such property may be rejected by the Department and new appraisals required. Evaluations found to reflect other than current fair market value or found to have been performed by persons unfamiliar with such class of property or lacking independence (where required) from the owner of such property may be rejected by the Department and new evaluations or appraisals required.

Cite as Ga. Comp. R. & Regs. R. 80-2-12-.04

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-650](#).

HISTORY: Original Rule entitled "Assets Acquired - Debts Previously Contracted ("D.P.C.")" adopted. F. June 27, 2018; eff. July 17, 2018.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-2-12-.05 Combination of Debt for Legal Lending Limit Purposes

(a) General Rule. Pursuant to Code Section [7-1-658](#), loans or extensions of credit to one person will be attributed to another person and each person will be deemed a borrower:

(1) When proceeds of a loan or extension of credit are to be used for the direct benefit of the other person, to the extent of the proceeds so used;

(2) When a common enterprise is deemed to exist between the persons as the persons within the group are directly or indirectly related through common control including where one borrower is directly or indirectly controlled by another borrower;

(3) When there is a common use of funds between the persons; or

(4) When a person has a financial obligation on a loan or an extension of credit, to the extent of such obligation.

(b) Definitions. For purposes of this Rule, the below terms shall be defined as follows:

(1) Common control. The direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise. Without limiting the foregoing, a person shall be considered to control another person if the first person:

(A) Owns, controls or holds with power to vote 25 percent or more of any class of voting securities of the other person;

(B) Controls in any manner the election of a majority of the directors, trustees, or persons performing similar functions of the other person; or

(C) Exercises a controlling influence over the management or policies over the other person as determined by the department.

(2) Common use of funds. The proceeds of a loan or an extension of credit to a borrower will be deemed to be a common use of funds and will be attributed as one loan when the proceeds, or assets purchased with the proceeds, are comingled or used to acquire property, goods, or services for the purpose of a shared common commercial objective between the borrowers.

(3) Direct benefit. The proceeds of a loan or extension of credit to a borrower will be deemed to be used for the direct benefit of another person and will be attributed to the other person when the proceeds, or assets purchased with the proceeds, are transferred to another person, other than in a bona fide arm's length transaction where the proceeds are used to acquire property, goods, or services.

(4) Obligation. A commitment that creates a liability or contingent liability for payment on a loan or extension of credit irrespective of whether the person is a borrower.

(5) Person. An individual or a corporation, limited liability company, partnership, trust, association, joint venture, sole proprietorship, unincorporated organization, or any other form of entity.

Cite as Ga. Comp. R. & Regs. R. 80-2-12-.05

AUTHORITY: O.C.G.A. § [7-1-658](#).

HISTORY: Original Rule entitled "Combination of Debt for Legal Lending Limit Purposes" adopted. F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-3. RULES OF DEPARTMENT OF BANKING AND FINANCE MONEY TRANSMISSION

Subject 80-3-1. MONEY TRANSMISSION AND RELATED FINANCIAL SERVICES

80-3-1-.01 Payment Instrument Sellers and Money Transmitters

(1) For purposes of Rules 80-3-1-.01, [80-3-1-.03](#), [80-3-1-.04](#), [80-3-1-.06](#), [80-3-1-.07\(4\)](#), [80-3-1-.08](#), [80-3-1-.09](#), and [80-5-1-.02\(1\)](#), the terms that are defined in O.C.G.A. § [7-1-680](#) shall have the identical meaning.

(2) Dual Purpose. A license for the sale of payment instruments shall also permit the licensee to conduct money transmission, but the licensee must clearly inform the Department in writing that it intends to transmit money. A separate license will be issued for persons who intend to conduct only money transmission.

(3) Every applicant for a license shall demonstrate to the Department that such applicant has sufficient financial resources in the form of working capital and tangible net worth to successfully engage in the business of selling payment instruments or money transmission. Sufficiency of financial resources shall be determined through financial analysis by the Department of pro-forma and historical financial information of the applicant. Each licensee shall be required to complete and attest to official questionnaires and statements of assets and liabilities when requested for examination purposes. Licensees shall be prohibited from withholding, deleting, destroying, or altering information requested by an examiner of the Department or making false statements or material misrepresentations to the Department during the course of an examination or on any application or renewal form sent to the Department.

(4) Authorized Agents.

(a) Licensees may designate authorized agents to engage in the sale of payment instruments or money transmission at non-banking outlets and the place of business of such authorized agents will not be construed as a branch office. The authorized agent must be bonded and the licensee made solely liable for the payment of the issued payment instruments or transmitted money upon proper presentation and demand. The responsibility of both the licensee and its authorized agent shall be carefully defined in a written agreement setting forth the duties of both parties and providing for remuneration of the authorized agent. The licensee's blanket bond coverage shall extend to cover transactions by the authorized agent and the conveyance of the funds to the licensee or the licensee's depository financial institution.

(b) Licensees are required to submit authorized agent information, including notices of additional locations or changes in locations operated by an authorized agent, to the Department in such form, timeframe, and manner and with such supporting documentation as required. The initial authorized agent list should include all authorized agents of the licensee as of the date the licensee begins business. Future reports related to authorized agents will be submitted on a quarterly basis. The initial authorized agent list as well as the subsequent quarterly reports shall be deemed to be the licensee's notice of new locations operated by authorized agents as well as the licensee's application for approval of the designated authorized agents. The notice required by this section shall also include the name and business locations of any authorized agent whose agency has been revoked, suspended, cancelled, terminated, or voluntarily closed by the licensee since the previous report. The reason for such revocation or suspension, and the amount of any outstanding claim by the licensee against the authorized agent relating to the sale of payment instrument or money transmission shall be provided to the Department upon request. Failure to report changes to authorized agents and/or locations in the reporting period in which the authorized agent began or ceased

offering the licensee's services can result in fines, revocation, suspension, or other administrative action by the Department.

(5) Every licensee or authorized agent of a licensee, unless such authorized agent is a financial institution whose deposits are federally insured, shall display prominently in the premises where money is transmitted or where payment instruments are issued or sold a copy of its license.

(6) Every licensee giving notices of additional locations or changes in locations operated by the licensee shall do so in a form and manner as provided by the Department.

(7) Licensees are required to prepare and submit various reports of condition.

(a) Each licensee shall have an audit of its books and records performed at least annually by independent public accountants in accordance with generally accepted auditing standards. Audits will be provided to the Department within ten (10) days of the Department's request for such information.

(b) Each licensee shall submit to the Department, through NMLS, a Money Services Businesses ("MSB") Call Report on a quarterly basis in a form and manner prescribed by the Department, no later than forty-five (45) days after the end of each calendar quarter.

(c) Each licensee shall file, no later than August 14th of each year, an activity statement in a form and manner prescribed by the Department, which shall include, but not be limited to, the average daily outstanding balances for payment instruments or outstanding orders to transmit not yet paid for transactions originating in Georgia during the second calendar quarter. Licensees submitting an activity statement to the Department are certifying to the material accuracy and validity of the information as submitted.

(8) Proceeds received from the sale of payment instruments or money transmission net of fees charged and retained by the authorized agent shall be remitted to the licensee in accordance with the terms of the contract between the licensee and the authorized agent.

(9) Receipt. Each customer that is a payment instrument holder shall be provided with a written receipt or other evidence of acceptance of the issuance of payment instruments or the transmission of money showing the name of the licensee or trade name of the licensee that is registered with the Department, authorized agent identifier information, the date of issuance of the payment instrument or of the transmission of money, the dollar amount of the issued payment instrument or of the transmitted money, and the fee charged to the customer.

(10) Minimum Books and Records.

(a) Each licensee shall make, keep, and preserve the following books, accounts, and other records:

1. A record of each payment instrument sold;
2. A general ledger which shall be posted at least monthly containing all assets, liabilities, capital, and income and expense accounts;
3. Settlement sheets received from authorized agents;
4. Bank statements and bank reconciliation records;
5. Records of outstanding payment instruments;
6. Records of each payment instrument paid;
7. A list of the names and addresses of all of the licensee's authorized agents;

8. A copy of all currency transaction reports and suspicious activity reports that are required by law to be filed by the licensee and the related work papers;

9. For money transmitters, records of all money transmissions sent or received as well as all outstanding money transmissions; and

10. Supporting documentation for all reports required to be prepared or filed with the Department or the Nationwide Multistate Licensing System and Registry.

(b) Each licensee shall maintain a principal location at which its books and records are maintained and which is accessible to the Department for examination during normal business hours. Records required to be maintained under this rule may be maintained in a photographic, electronic, or other similar format at a central location within or outside the State of Georgia provided specific records can be transmitted to a location designated by the Department within ten (10) days of the Department's request. The Department may examine any person that purports to satisfy the exemption from licensure set forth in O.C.G.A. § [7-1-682](#) to verify that the person qualifies for the exemption from licensure. A licensee that refuses to permit an investigation or examination of books, accounts and records (after a reasonable request by the Department), that withholds material information, or makes a misrepresentation shall have its license revoked.

(11) A licensee shall make a written request to the Department seeking approval for any proposed change in ultimate equitable ownership through acquisition or other change in control or change in executive officer resulting from such proposed change in ownership or change in control of the licensee as required by O.C.G.A. § [7-1-688](#) at least thirty (30) days prior to the proposed change.

(12) If a licensee's average daily outstanding balances for payment instruments or outstanding orders to transmit not yet paid for transactions originating in Georgia, as calculated by the licensee for each calendar quarter, exceeds the amount of the licensee's surety bond by more than ten percent (10%), the licensee must promptly provide additional coverage to fully account for the increase in outstandings pursuant to O.C.G.A. § [7-1-683.2\(b\)](#). However, notwithstanding the above, the amount of the surety bond required by O.C.G.A. § [7-1-683.2\(b\)](#) shall not exceed \$2,000,000.00.

Cite as Ga. Comp. R. & Regs. R. 80-3-1-.01

AUTHORITY: O.C.G.A. §§ [7-1-61](#), [7-1-681](#), [7-1-690](#).

HISTORY: Original Rule entitled "Sale of Money Orders at Non-Banking Outlets" adopted. F. and eff. June 30, 1965.

Repealed: New Rule of same title adopted. F. Nov. 19, 1975; eff. Dec. 9, 1975.

Repealed: New Rule entitled "Exemptions" adopted. F. July 13, 1981; eff. Aug. 2, 1981.

Repealed: New Rule entitled "Sale of Checks" adopted. F. Sept. 4, 1990; eff. Sept. 24, 1990.

Amended: F. Sept. 26, 1995; eff. Oct. 16, 1995.

Amended: Rule retitled "Check Sellers". F. Aug. 26, 1997; eff. Sept. 15, 1997.

Amended: F. July 14, 1998; eff. Aug. 3, 1998.

Amended: F. July 12, 1999; eff. Aug. 1, 1999.

Amended: Rule retitled "Check Sellers and Money Transmitters: Exemptions and Requirements". F. July 28, 2003; eff. Aug. 17, 2003.

Amended: F. Aug. 15, 2005; eff. Sept. 4, 2005.

Amended: F. Aug. 22, 2006; eff. Sept. 11, 2006.

Amended: F. Aug. 15, 2007; eff. Sept. 4, 2007.

Amended: Title changed to "Payment Instrument Sellers and Money Transmitters." F. Jun. 10, 2014; eff. Jun. 30, 2014.

Amended: F. June 15, 2015; eff. July 5, 2015.

Amended: F. Jan. 6, 2016; eff. Jan. 26, 2016.

Amended: F. June 27, 2018; eff. July 17, 2018.

Amended: F. July 9, 2019; eff. July 29, 2019.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-3-1-.02 Check Cashers

(1) For purposes of Rules 80-3-1-.02, [80-3-1-.03](#), [80-3-1-.04](#), [80-3-1-.06](#), [80-3-1-.07\(3\)](#), [80-3-1-.08](#), [80-3-1-.09](#), and [80-5-1-.02\(2\)](#), the terms that are defined in O.C.G.A. § [7-1-700](#) shall have the identical meaning.

(2) Every applicant for a license shall demonstrate to the Department that such applicant has sufficient financial resources in the form of working capital and tangible net worth to successfully engage in the business of cashing payment instruments. Sufficiency of financial resources shall be determined through financial analysis by the Department of pro-forma and historical financial information of the applicant. Each licensee shall be required to complete and attest to official questionnaires and statements of assets and liabilities when requested for examination purposes. Licensees shall be prohibited from withholding, deleting, destroying, or altering information requested by an examiner of the Department or making false statements or material misrepresentations to the Department during the course of an examination or on any application or renewal form sent to the Department.

(3) Every licensee shall maintain an original written authorization or other evidence of verification attesting to the fact that each specific corporation or other business association has authorized its officers and employees or specific officers or employees to present payment instruments, drawn by the corporation or other business association payable to cash or drawn by any party payable to the corporation or other business association, to a licensee for cashing. A check casher shall not cash a payment instrument payable to persons other than natural persons unless the check casher has on file such written authorization or verification indicating that the payee has authorized the presentation of such payment instruments on behalf of the payee.

(4) Every licensee shall post in prominent view of each teller window or other customer service station a copy of its license. Advertising material related to the cashing of payment instruments and distributed within this state shall contain the licensee's name, which shall conform to the name on record with the Department, and unique identifier, which shall clearly indicate that the number was issued by the Nationwide Multistate Licensing System and Registry.

(5) Minimum Books and Records.

(a) Books and records required herein shall be maintained by every licensee.

(b) A record of cashed payment instruments shall be maintained by each licensee as a log of all transactions occurring each day. The log must be maintained in chronological order based on the date of negotiation of the payment instrument.

1. For all cashed payment instruments, such record shall include:

- (i) The date of negotiation of the payment instrument;
- (ii) Name, address, and identifying number (social security, driver's license, passport, etc.) of the person negotiating the payment instrument;
- (iii) Amount of the payment instrument; and
- (iv) Amount of fee charged for cashing the payment instrument.

2. For all cashed payment instruments in an amount of one thousand dollars (\$1,000) or more, such record shall also include:

- (i) Date of the payment instrument;
- (ii) Payment instrument number;
- (iii) Name and location or routing number of the payor bank or, if a pre-paid card, the branded card name; and
- (iv) Name of the drawer of the payment instrument.

(c) A daily cash reconciliation statement shall be maintained summarizing each day's activity and reconciling cash on hand at the opening of business to cash on hand at the close of business. Such reconciliation statement shall separately reflect cash received from the sale of payment instruments (if licensed as a seller of payment instruments or an authorized agent of such licensee), redemption of returned items, bank cash withdrawals, cash disbursed in cashing of payment instruments, and bank cash deposits.

(d) A general ledger containing records of all assets, liabilities, capital, income and expenses shall be maintained. The general ledger shall be posted from the daily record of cashed payment instruments or other record of original entry, at least quarterly, and shall be maintained in such manner as to facilitate the preparation of an accurate trial balance of accounts in accordance with generally accepted accounting practices. A consolidated general ledger reflecting activity at two or more locations under the same license may be maintained provided books of original entry are separately maintained for each location.

(e) For all entities cashing payment instruments, each customer cashing a payment instrument shall be offered the option of receiving a receipt showing the name of the licensee or trade name of the licensee, the transaction date, the amount of the payment instrument, and the fee charged.

(f) All licensees shall maintain supporting documentation for all reports and logs required to be prepared or filed with the Department or the Nationwide Multistate Licensing System and Registry.

(6) All payment instruments drawn on a financial institution domiciled in the United States and cashed by a licensee shall be sent for deposit to the licensee's account at a financial institution authorized to do business in the State of Georgia whose deposits are federally insured or sent for collection not later than the close of business on the next business day after the date on which the payment instrument was cashed.

(7) Each licensee shall maintain a principal location at which its books and records are maintained and which is accessible to the Department for examination during normal business hours. Records required to be maintained under this rule may be maintained in a photographic, electronic, or other similar format at a central location within or outside the State of Georgia provided specific records can be transmitted to a location designated by the Department within ten (10) days of the Department's request. The Department may examine any person that purports to satisfy the exemption from licensure set forth in O.C.G.A. § [7-1-701.1](#) to verify that the person qualifies for the exemption from licensure. A licensee that refuses to permit an investigation or examination of books, accounts and records (after a reasonable request by the Department), that withholds material information or makes a misrepresentation shall have its license revoked.

(8) The business of the licensee may be conducted through additional outlets, including those operated as mobile facilities, provided that mobile facilities maintain a regular schedule of times and locations at which they cash payment instruments, file the schedule with the Department, and comply with local licensure requirements at each location at which business is conducted. A licensee must provide the Department with written notice at least thirty (30) days prior to it conducting business at any additional outlets.

(9) A licensee shall notify the Department in writing within fifteen (15) days of the closing of the portion of its business that cashes payments instruments and shall surrender its original license to the Department at that time.

(10) A licensee shall make a written request to the Department seeking approval for any proposed change in ultimate equitable ownership through acquisition or other change in control or change in executive officer resulting from such change in ownership or change in control of the licensee as required by O.C.G.A. § [7-1-705.1](#) at least thirty (30) days prior to the proposed change.

(11) Every licensee giving notices of changes in locations operated by the licensee over those previously reported shall do so at least thirty (30) days prior to conducting business at the new location and on forms provided by the Department.

Cite as Ga. Comp. R. & Regs. R. 80-3-1-.02

AUTHORITY: O.C.G.A. §§ [7-1-61](#), [7-1-701.1](#), [7-1-702.1](#), [7-1-706.1](#).

HISTORY: Original Rule entitled "Display of License Certificate" adopted. F. and eff. June 30, 1965.

Repealed: New Rule of same title adopted. F. Nov. 19, 1975; eff. Dec. 9, 1975.

Repealed: New Rule entitled "Cashers of Checks" adopted. F. Sept. 4, 1990; eff. Sept. 24, 1990.

Amended: F. Sept. 13, 1991; eff. Oct. 3, 1991.

Amended: Rule retitled "Check Cashers". F. Aug. 26, 1997; eff. Sept. 15, 1997.

Amended: F. Dec. 18, 2000; eff. Jan 7, 2001.

Amended: F. July 28, 2003; eff. Aug. 17, 2003.

Amended: F. Aug. 15, 2005; eff. Sept. 4, 2005.

Amended: F. Aug. 22, 2006; eff. Sept. 11, 2006.

Amended: F. Aug. 15, 2007; eff. Sept. 4, 2007.

Amended: F. Aug. 4, 2008; eff. Aug. 24, 2008.

Amended: F. Aug. 27, 2009; eff. Sept. 6, 2009.

Amended: F. Nov. 2, 2010; eff. Nov. 22, 2010.

Amended: F. Jun. 10, 2014; eff. Jun. 30, 2014.

Amended: F. June 15, 2015; eff. July 5, 2015.

Amended: F. June 27, 2018; eff. July 17, 2018.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-3-1-.07 Administrative Fines and Penalties

(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 licensed under Article 4 or Article 4A of Chapter 1 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 and must be paid prior to renewal of the annual license, reapplication for a license, or any other activity requiring Departmental approval.

(3) Check Cashers. The Department establishes the following fines and penalties for violation of the law and rules governing check cashers.

(a) Books and Records. If the Department, in the course of an examination or investigation, finds that a licensee has failed to maintain its books and records according to the requirements of O.C.G.A. § [7-1-706\(a\)](#) and Rules [80-3-1-.02\(2\)](#) or [80-3-1-.02\(5\)](#), such licensee shall be subject to a fine of one thousand dollars (\$1,000) for each books and records violation listed in Rules [80-3-1-.02\(2\)](#) or [80-3-1-.02\(5\)](#).

(b) Excessive Fees. If the Department, in the course of an examination or investigation, finds that a licensee has charged fees for cashing payment instruments in excess of the amount set forth in O.C.G.A. § [7-1-707\(f\)](#), such licensee shall be subject to a fine of five thousand dollars (\$5,000) per occurrence and its license will be subject to revocation or suspension.

(c) Posting of Charges. Any licensee who does not display, at all locations, a notice stating the charges/fees for cashing payment instruments in accordance with O.C.G.A. § [7-1-707.1](#) shall be subject to a fine of five hundred dollars (\$500).

(d) Operating Without Proper License. Any person who acts as a check casher prior to receiving a current license required under Article 4A of Chapter 1 of Title 7, or who acquires a business that cashes payment instruments and operates without its own license, 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 day and its license application will be subject to denial or its license will be subject to revocation or suspension.

(e) Felons. Any licensee that hires or retains a covered employee who is a felon as described in O.C.G.A. § [7-1-703\(b\)](#), when such covered employee has not complied with the remedies provided for in O.C.G.A. § [7-1-703\(b\)](#) for each conviction before such employment, shall be subject to a fine of five thousand dollars (\$5,000) for each such covered employee and its license will be subject to revocation or suspension.

(f) GCIC Background Checks on Employees. Any licensee that does not obtain a Georgia Crime Information Center ("GCIC") criminal background check on each covered employee prior to the initial date of hire or retention shall be subject to a fine of one thousand dollars (\$1,000) per occurrence. Proof of the required GCIC criminal background check must be retained by the licensee until five years after termination of employment by the licensee. Notwithstanding compliance with this requirement to perform a GCIC criminal background check prior to employment, failure to maintain criminal background checks as required will result in a fine of one thousand dollars (\$1,000) for each covered employee for which the licensee is missing this documentation.

(g) Deferred Payment. Any licensee that defers payment on a payment instrument pending collection and has not obtained the surety bond as required by O.C.G.A. § [7-1-707\(c\)](#) shall be subject to a fine of five thousand dollars (\$5,000) per occurrence and its license will be subject to revocation or suspension.

(h) Other Business Activities. Any licensee found to have violated any law of this state by conducting any other business that is not lawful in conjunction with cashing payment instruments, shall be subject to a fine of five thousand dollars (\$5,000) and its license will be subject to revocation or suspension.

- (i) Corporate Checks. Any licensee that cashes a payment instrument made payable to a corporation or other business association or cashes a payment instrument drawn by the corporation or other business association and made payable to cash without the proper written authorization as required by O.C.G.A. § [7-1-707\(d\)](#) and Rule [80-3-1-.02\(3\)](#) shall be subject to a fine of one thousand dollars (\$1,000) per occurrence.
- (j) Advertising - "No Identification Required." A licensee that advertises that it will cash payment instruments with no identification required will be subject to a fine of one thousand dollars (\$1,000).
- (k) Identification Requirements for Cashing Payment Instruments. No licensee shall cash payment instruments without identification of the bearer of such check. Failure to comply with the requirements of O.C.G.A. § [7-1-707\(e\)](#) shall subject the licensee to a fine of one thousand dollars (\$1,000) per occurrence.
- (l) Failure to Submit to Exam. The penalty for the refusal of a licensee to permit the Department to conduct an investigation or examination of its books, accounts, and records, shall be the revocation of its license and a five thousand dollar (\$5,000) fine.
- (m) Consumer Complaints. Any licensee who fails to respond to a written consumer complaint or fails to respond to the Department regarding a consumer complaint, within the time periods specified in the Department's correspondence to such licensee, shall be subject to a fine of one thousand dollars (\$1,000) for each occurrence. Repeated failure to properly respond, as reasonably determined by the Department, may result in the revocation or suspension of its license.
- (n) Failure to Notify or Obtain Approval from the Department of Change in Ownership, Change in Control, or Designation of Executive Officer. Any licensee or other person who fails to obtain the Department's prior approval of a change in ultimate equitable ownership through acquisition or other change in control or change in executive officer resulting from such change in ownership or change in control of the licensee in compliance with O.C.G.A. § [7-1-705.1](#) and Rule [80-3-1-.02](#) shall be subject to a fine of one thousand dollars (\$1,000) and its license will be subject to revocation or suspension. Any licensee or other person who fails to timely notify the Department of a change in executive officer not resulting from a change in control or ownership in compliance with O.C.G.A. § [7-1-705](#) and Rule [80-3-1-.02](#) shall be subject to a fine of one thousand dollars (\$1,000) and its license will be subject to revocation or suspension.
- (o) Bank Secrecy Act. If the Department, in the course of an examination or investigation, finds that a licensee has failed to comply with the Currency and Foreign Transactions Reporting Act of 1970 and its related regulations, including those set forth at 31 CFR Chapter X (together, the "Bank Secrecy Act") or the requirements referred to in Rules [80-3-1-.03](#), [80-3-1-.04](#), and [80-3-1-.06](#), such licensee shall be subject to a fine of one thousand dollars (\$1,000) for each instance of non-compliance.
- (p) Failure to Post Required License or Failure to Include Required Legend on Advertising. Any licensee that fails to post a copy of its license in prominent view of each teller window or other customer service station, or distributes advertising in this state related to the cashing of payment instruments that fails to comply with the requirements of Rule [80-3-1-.02\(4\)](#) shall be subject to a fine of five hundred dollars (\$500) for each instance of non-compliance.
- (q) Failure to Timely Disclose Change in Affiliation of Natural Person that Executed Lawful Presence Affidavit and Submission of New Affidavit. Any licensed check casher that fails to disclose that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee 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 licensed check casher 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 licensee, shall be subject to a fine of one thousand dollars (\$1,000) per day until the new affidavit is provided.
- (r) Failure to Timely Update Information on the Nationwide Multistate Licensing System and Registry. Any licensee that fails to update its information on the Nationwide Multistate Licensing System and Registry ("NMLSR"), including, but not limited to, amendments to any response to disclosure questions, 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 control person of a licensee to update the individual's information on the NMLSR, including, but not limited to, amendments to any response to disclosure questions by the control person, within ten (10) business days of the date of the event necessitating the change, shall subject the licensee to a fine of one thousand dollars (\$1,000) per occurrence.

(s) Prohibited Acts. Any licensee or other person who violates the provisions of O.C.G.A. § [7-1-708](#) shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation and its license will be subject to suspension or revocation.

(t) 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 and a five thousand dollar (\$5,000) fine. Refusal shall require at least two attempts by the Department to schedule an examination or investigation.

(4) Payment Instrument Sellers and Money Transmitters. The Department establishes the following fines and penalties for violation of the laws and rules governing payment instrument sellers and money transmitters.

(a) Books and Records. If the Department, in the course of an examination or investigation, finds that a licensee has failed to maintain its books and records according to the requirements of O.C.G.A. § [7-1-689](#) and Rules [80-3-1-.01\(4\)](#), [80-3-1-.01\(6\)](#), [80-3-1-.01\(7\)](#), [80-3-1-.01\(9\)](#), or [80-3-1-.01\(10\)](#), such licensee shall be subject to a fine of one thousand dollars (\$1,000) for each books and records violation listed in Rule [80-3-1-.01\(4\)](#), [80-3-1-.01\(6\)](#), [80-3-1-.01\(7\)](#), [80-3-1-.01\(9\)](#), or [80-3-1-.01\(10\)](#).

(b) Operating Without Proper License. Any person who acts as a payment instrument seller or money transmitter prior to receiving a current license required under O.C.G.A. Article 4 of Chapter 1 of Title 7, or who acquires a payment instrument seller or money transmission business without its own license, 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 day and its application will be subject to denial or its license will be subject to revocation or suspension.

(c) Felons. Any licensee that hires or retains a covered employee who is a felon as described in O.C.G.A. § [7-1-684\(b\)](#), when such covered employee has not complied with the remedies provided for in O.C.G.A. § [7-1-684\(b\)](#) for each conviction before such employment, shall be subject to a fine of five thousand dollars (\$5,000) for each such covered employee and its license will be subject to revocation or suspension.

(d) Locations and Authorized Agents. Any licensee that does not give timely notice to the Department of new locations or agents beyond those previously reported as required in O.C.G.A. § [7-1-686\(d\)](#) and Rules [80-3-1-.01\(4\)](#) and [80-3-1-.01\(6\)](#), shall be subject to a fine of five hundred dollars (\$500) for each location or agent not reported.

(e) GCIC Background Checks on Employees. Any licensee that does not obtain a Georgia Crime Information Center ("GCIC") criminal background check on each covered employee prior to the initial date of hire or retention shall be subject to a fine of one thousand dollars (\$1,000) per occurrence. Proof of the required GCIC criminal background check must be retained by the licensee until five years after termination of employment by the licensee. Notwithstanding compliance with this requirement to perform a GCIC criminal background check prior to employment, failure to maintain criminal background checks as required will result in a fine of one thousand dollars (\$1,000) for each covered employee for which the licensee is missing this documentation.

(f) Authorized Agents. Any licensee that does not give notice of an authorized agent whose agency certificate has been revoked, suspended, cancelled, terminated, or voluntarily closed by the licensee as required by Rule [80-3-1.01\(4\)](#), shall be subject to a fine of five thousand dollars (\$5,000) for each authorized agent revocation, suspension, cancellation, termination, or voluntary closure not reported in writing to the Department.

(g) Failure to Provide Receipt. In the event a licensee or its authorized agent does not provide the customer with a written receipt or other evidence of acceptance as required in Rule [80-3-1-.01\(9\)](#), it shall be subject to a fine of one thousand dollars (\$1,000) per transaction where the receipt was not provided.

(h) Failure to Notify or Obtain Approval from the Department of Change in Ownership, Change in Control, or Designation of Executive Officer. Any licensee or other person who fails to obtain the Department's prior approval of a change in ultimate equitable ownership through acquisition or other change in control or change in executive officer resulting from such change in ownership or change in control of the licensee in compliance with O.C.G.A. § [7-1-688](#) and Rule [80-3-1-.01](#) shall be subject to a fine of one thousand dollars (\$1,000) and its license will be subject to revocation or suspension. Any licensee or other person who fails to timely notify the Department of a change in executive officer not resulting from a change in control or ownership in compliance with O.C.G.A. § [7-1-687](#) and Rule 80-3-1-01 shall be subject to a fine of one thousand dollars (\$1,000) and its license will be subject to revocation or suspension.

(i) Other Business Activities. Any licensee found to have violated any law of this state by conducting any other business that is not lawful in conjunction with the selling of payment instruments or money transmission, shall be subject to a fine of five thousand dollars (\$5,000) and its license will be subject to revocation or suspension.

(j) Failure to Report. Any licensee who fails to provide required reports as established by the Department and file the reports with the Department or the Nationwide Multistate Licensing System and Registry within the designated time periods shall be subject to a fine of one thousand dollars (\$1,000) for each such occurrence. Repeated failure to provide timely reports as required may result in additional administrative action by the Department, including, but not limited to, license revocation.

(k) Failure to Submit to Exam. The penalty for the refusal of a licensee to permit the Department to conduct an investigation or examination of its books, accounts, and records, shall be the revocation of its license and a five thousand dollars (\$5,000) fine.

(l) Consumer Complaints. Any licensee who fails to respond to a written consumer complaint or fails to respond to the Department regarding a consumer complaint, within the time periods specified in the Department's correspondence to such licensee, shall be subject to a fine of one thousand dollars (\$1,000) for each occurrence. Repeated failure to properly respond, as reasonably determined by the Department, may result in the revocation or suspension of its license.

(m) Bank Secrecy Act. If the Department, in the course of an examination or investigation, finds that a licensee has failed to comply with the Currency and Foreign Transactions Reporting Act of 1970 and its related regulations, including those set forth at 31 CFR Chapter X (together, the "Bank Secrecy Act") or the requirements referred to in Rules [80-3-1-.03](#), [80-3-1-.04](#), and [80-3-1-.06](#), such licensee shall be subject to a fine of one thousand dollars (\$1,000) for each instance of non-compliance.

(n) Failure to Timely Disclose Change in Affiliation of Natural Person that Executed Lawful Presence Affidavit and Submission of New Affidavit. Any licensed payment instrument seller or money transmitter that fails to disclose that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee 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 licensed payment instrument seller or money transmitter 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 licensee, shall be subject to a fine of one thousand dollars (\$1,000) per day until the new affidavit is provided.

(o) Failure to Timely Update Information on the Nationwide Multistate Licensing System and Registry. Any licensee that fails to update its information on the Nationwide Multistate Licensing System and Registry ("NMLSR"), including, but not limited to, amendments to any response to disclosure questions, 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 control person of a licensee to update the individual's information on the NMLSR, including, but not limited to, amendments to any response to disclosure questions by the control person, within ten (10) business days of the date of the event necessitating the change, shall subject the licensee to a fine of one thousand dollars (\$1,000) per occurrence.

(p) Failure to Post Required License. Any licensee that fails to post a copy of its license in the premises where money is transmitted or where payment instruments are issued or sold shall be subject to a fine of five hundred dollars (\$500) for each instance of non-compliance.

(q) Prohibited Acts. Any licensee or other person who violates the provisions of O.C.G.A. § [7-1-692](#) shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation and its license will be subject to suspension or revocation.

(r) 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 and a five thousand dollar (\$5,000) fine. Refusal shall require at least two attempts by the Department to schedule an examination or investigation.

Cite as Ga. Comp. R. & Regs. R. 80-3-1-.07

AUTHORITY: O.C.G.A. §§ [7-1-61](#), [7-1-694](#), [7-1-708.2](#).

HISTORY: Original Rule entitled "Administrative Fines and Penalties" adopted. F. July 28, 2003; eff. Aug. 17, 2003.

Amended: F. Sept. 1, 2004; eff. Sept. 21, 2004.

Amended: F. Aug. 15, 2005; eff. Sept. 4, 2005.

Amended: F. Aug. 22, 2006; eff. Sept. 11, 2006.

Amended: F. Aug. 15, 2007; eff. Sept. 4, 2007.

Amended: F. Aug. 4, 2008; eff. Aug. 24, 2008.

Amended: F. Nov. 2, 2010; eff. Nov. 22, 2010.

Amended: F. Nov. 7, 2013; eff. Nov. 27, 2013.

Amended: F. Jun. 10, 2014; eff. Jun. 30, 2014.

Amended: F. Jan. 6, 2016; eff. Jan. 26, 2016.

Note: Correction of non-substantive typographical error, duplicate entry of "Amended: F. Jan. 6, 2016; eff. Jan. 26, 2016." deleted from History. Effective Mar. 8, 2016

Amended: F. June 29, 2017; eff. July 19, 2017.

Amended: F. June 27, 2018; eff. July 17, 2018.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-5. FINANCIAL INSTITUTIONS

Subject 80-5-1. SUPERVISION, EXAMINATION, REGISTRATION AND INVESTIGATION FEES ADMINISTRATIVE LATE FEES

80-5-1-.01 General

(1) The appropriation for the Department of Banking and Finance is enacted by the General Assembly and signed into law annually. An annual fee shall be assessed on financial institutions supervised or regulated by the Department. These fees are remitted to the Office of the State Treasurer.

(2) Annual assessments are for the Department's fiscal year, July 1 through June 30. Assessments for depository institutions are based upon each financial institution's assets reported on the Report of Condition preceding the assessment date. All financial institutions will be assessed, either for a full year or for a partial year, as appropriate. Subject to an increased assessment due to an acquisition, annual assessments for Georgia chartered financial institutions existing on July 1, will be based on June 30 Call Report Assets, should be delivered on or about September 10, and are due and payable no later than September 30. A late payment penalty may be assessed for the full year billing at any time after the due date. Subject to the provisions herein, assessments related to a conversion or charter issuance after July 1 will be prorated for the number of full and partial months as a Georgia state chartered institution and will be delivered as soon as practical and shall be due and payable upon receipt. A late payment penalty may be assessed for the partial year billing fourteen days after bill issuance. Under no circumstances, shall any portion of an annual assessment paid to the Department be refunded.

(3) Newly chartered financial institutions will not be assessed for the first three full months plus any partial month from the begin business date. Thereafter, annual assessments as set forth herein shall apply. The initial assessment period for newly chartered financial institutions shall begin on the first day of the month after the first three full calendar months from the begin business date.

(4) Assessment fees for a Georgia state chartered institution that is acquired by a federal or national institution or institution chartered by another state after July 1, but prior to the date that assessments are due and payable, will be prorated based on the number of full and partial months the institution operated as a Georgia state chartered institution. A Georgia state chartered institution that is acquired by a federal or national institution or an institution chartered by another state after the assessment date, shall pay the full assessment.

(5) Assessment fees for a Georgia state chartered institution that is acquired by another Georgia state chartered institution after July 1, but prior to the date that assessments are due and payable, will be assessed on the combined total assets and offices of the combined institutions as of June 30. A Georgia state chartered institution that is acquired after the assessment date, shall pay the full assessment.

(6) Reserved.

(7) Assessment fees for a national bank, federal credit union, or institution chartered by another state that is acquired by a Georgia state chartered institution after July 1 will be prorated based on the number of full and partial months the additional assets of the national bank, federal credit union, or the institution chartered by another state were combined into the Georgia state chartered institution.

(8) The Department has made available an Applications Manual, which manual includes the fees for each type of application, registration and notification.

(9) The Department has policies which provide that certain qualifying institutions may expedite applications or submit shortened forms of applications. The fees for these expedited processes have been reduced accordingly. The criteria for banks to qualify for such treatment is set forth in Rule [80-1-1-.10](#) while the criteria for bank holding companies to qualify is set forth in Rule [80-6-1-.13](#).

Cite as Ga. Comp. R. & Regs. R. 80-5-1-.01

AUTHORITY: O.C.G.A. §§ [7-1-41](#); [7-1-61](#).

HISTORY: Original Rule entitled "General" adopted. F. Nov. 4, 1975; eff. Nov. 24, 1975.

Repealed: New Rule of same title adopted. F. Mar 24, 1982; eff. June 13, 1982.

Amended: F. June 28, 1984; eff. Aug. 1, 1984, as specified by the Agency.

Amended: F. June 10, 1988; eff. June 30, 1988.

Amended: F. July 14, 1998; eff. Aug. 3, 1998. F. Nov. 2, 2010; eff. Nov. 22, 2010.

Amended: F. Jun. 10, 2014; eff. Jun. 30, 2014.

Amended: F. June 15, 2015; eff. July 5, 2015.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-5-1-.02 License and Supervision Fees for Check Cashers, Payment Instrument Sellers, Money Transmitters, Representative Offices, Mortgage Lenders, Mortgage Brokers, and Installment Lenders; Due Dates

(1) Payment instrument sellers and money transmitters.

(a) The annual license fee is one thousand nine hundred dollars (\$1,900) for payment instrument sellers and nine hundred dollars (\$900) for money transmitters.

(b) The annual renewal license fee is one thousand nine hundred dollars (\$1,900) for payment instrument sellers and nine hundred dollars (\$900) for money transmitters and shall be due and must be received by the Department on or before the first day of December of each year. Where the person or corporation engages in both the sale of payment instruments and money transmission, the higher of the two fees shall be due and payable. 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 international bank representative offices shall pay a registration fee of one thousand dollars (\$1,000).

(4) Mortgage licensees and registrants.

(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 (\$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 one hundred dollars (\$100). 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 one hundred dollars (\$100). 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) Lender Registrants. The initial and renewal application and registration fee for mortgage lenders required to register but not be licensed with the Department shall be nine hundred dollars (\$900), due on or before December 1 of each year. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and registration 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 registration 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.

(e) Broker Registrants. The initial and renewal application and registration fee for mortgage brokers required to register but not be licensed with the Department shall be four hundred dollars (\$400), due on or before December 1 of each year. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and registration 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 registration 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.

(f) 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\(e\)](#).

(g) 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).

(h) Application for an additional office of a licensee shall be accompanied by a nonrefundable fee of three hundred thirty dollar (\$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 four hundred dollars (\$400). An annual renewal fee of four hundred dollars (\$400) 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) The Department may discount or surcharge all supervision or license fees herein provided to assure funding of annual appropriations by the General Assembly.

(7) 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.

(8) 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.

Cite as Ga. Comp. R. & Regs. R. 80-5-1-.02

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](#).

HISTORY: Original Rule entitled "Supervision Fees" adopted. F. Nov. 4, 1975; eff. Nov. 24, 1975.

Amended: F. June 8, 1976; eff. June 28, 1976.

Repealed: New Rule of the same title adopted. F. June 9, 1980; eff. July 1, 1980, as specified by the Agency.

Repealed: New Rule entitled "License Registration and Supervision Fees" adopted. F. May 24, 1982; eff. June 13, 1982.

Amended: F. June 28, 1984; eff. Aug. 1, 1984, as specified by the Agency.

Amended: F. June 10, 1988; eff. June 30, 1988.

Repealed: New Rule of same title adopted. F. Sept. 4, 1990; eff. Sept. 24, 1990.

Amended: F. Oct. 15, 1993; eff. Nov. 4, 1993.

Amended: F. Sept. 26, 1995; eff. Oct. 16, 1995.

Amended: Rule retitled "License, Registration and Supervision Fees for Check Cashers and Sellers, Representative Offices and Mortgage Lenders and Brokers; Due Dates" adopted. F. July 14, 1998; eff. Aug. 3, 1998.

Amended: F. Dec. 18, 2000; eff. Jan. 7, 2001.

Amended: Rule retitled "License, Registration and Supervision Fees for Check Cashers and Sellers, Money Transmitters, Representative Offices and Mortgage Lenders and Brokers; Due Dates". F. July 28, 2003; eff. Aug. 17, 2003.

Amended: F. Sept. 1, 2004; eff. Sept. 21, 2004.

Amended: F. Aug. 15, 2005; eff. Sept. 4, 2005.

Amended: F. Aug. 22, 2006; eff. Sept. 11, 2006.

Amended: F. Aug. 15, 2007; eff. Sept. 4, 2007.

Amended: F. Aug. 4, 2008; eff. Aug. 24, 2008.

Amended: F. Dec. 15, 2008; eff. Jan. 4, 2009.

Amended: F. Aug. 17, 2009; eff. Sept. 6, 2009.

Amended: F. Aug. 2, 2011; eff. Aug. 22, 2011.

Amended: Title changed to "License and Supervision Fees for Check Cashers, Payment Instrument Sellers, Money Transmitters, Representative Offices and Mortgage Lenders and Brokers; Due Dates." F. June 10, 2014; eff. June 30, 2014.

Amended: F. Aug. 29, 2014; eff. Sep. 18, 2014.

Amended: F. Dec. 5, 2014; eff. Dec. 25, 2014.

Amended: F. June 15, 2015; eff. July 5, 2015.

Amended: F. June 20, 2016; eff. July 10, 2016.

Amended: New title "License and Supervision Fees for Check Cashers, Payment Instrument Sellers, Money Transmitters, Representative Offices, Mortgage Lenders, Mortgage Brokers, and Installment Lenders; Due Dates." F. Aug. 19, 2020; eff. Sep. 8, 2020.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-5-1-.03 Examination, Supervision, Registration, Application and Other Fees for Financial Institutions and Nonbank Subsidiaries of Banks or Holding Companies

(1) Examinations. That portion of annual appropriations allocable to regular examination and supervision activities shall be assessed in accordance with the following scale for depository financial institutions:

(a) If the amount of Total Assets is:

If the amount of Total Assets is:		Assessment will be:		
Over	But Not Over	This Amount	Plus	Of Excess Over
0	1,700,000	0	0.001800	* 0
1,700,000	15,000,000	3,060	0.000230	1,700,000
15,000,000	85,000,000	6,119	0.000190	15,000,000
85,000,000	185,000,000	19,419	0.000100	85,000,000
185,000,000	915,000,000	29,419	0.000095	185,000,000
915,000,000	1,825,000,000	98,769	0.000085	915,000,000
1,825,000,000	5,470,000,000	176,119	0.000072	1,825,000,000
5,470,000,000	18,240,000,000	438,559	0.000056	5,470,000,000
18,240,000,000	36,485,000,000	1,153,679	0.000050	18,240,000,000
36,485,000,000	45,000,000,000	2,065,929	0.000040	36,485,000,000
45,000,000,000	57,000,000,000	2,406,529	0.000035	45,000,000,000
57,000,000,000	92,000,000,000	2,826,529	0.000030	57,000,000,000
92,000,000,000	130,000,000,000	3,876,529	0.000025	92,000,000,000
130,000,000,000	180,000,000,000	4,826,529	0.000023	130,000,000,000
180,000,000,000		5,976,529	0.000020	180,000,000,000

* Minimum assessment is \$350.

Note: Total Assets and resultant assessment may be rounded to the nearest dollar.

(b) All other financial institutions, including credit card banks, bankers banks, central credit unions, and related corporations not covered elsewhere in this Section, licensees under Article 4 (Payment Instrument Sellers and Money Transmitters) and 4A (Check Cashers) of Chapter 1 of Title 7, licensees and registrants under Article 13 of Chapter 1 of Title 7 (Georgia Residential Mortgage Act), licensees under Chapter 3 of Title 7 (Georgia Installment Loan Act), trust departments, and financial service providers shall pay an examination fee at the rate of \$65 per examiner-hour but not less than \$500 unless such examination is conducted in conjunction with another ongoing examination in which case there shall be no minimum charge. The above per hour charge shall be compensation for the work of Department examiners as well as any necessary, qualified outside assistance. The examination fee shall be due and payable immediately upon receipt of documentation from the Department setting forth the total amount of the fee. The \$500 minimum charge may be waived by the Commissioner or his/her designee when such charge clearly exceeds the hours spent on an examination.

(c) Notwithstanding the provisions of subsection (b) above, licensees under Article 13 of Chapter 1 of Title 7 shall pay the actual cost incurred by the Department in the conduct of an out of state examination, including personnel costs, transportation costs, meals, lodging and other incidental expenses, in addition to \$65 per examiner hour spent on the examination.

(d) The Department may discount or surcharge all examination and supervision fees herein provided to assure that anticipated revenues of the Department will fund the annual appropriation by the General Assembly.

(e) The Department may also require reimbursement for direct expenses, such as transportation costs, meals, lodging, etc. associated with out-of-state examinations or supervisory visits for any regulated entity, including money services businesses.

(2) Banking applications:

(a) Applicants for new branch offices or relocations of branches shall pay an investigation fee of \$1,250 for each application that is processed as a regular application. Applicants for new branch offices or relocations of branches are not required to pay an investigation fee for each application that is processed as an expedited application. A simple redesignation of an existing bank location, which does not entail the closure or opening of a location, only requires a written application but does not require a fee.

(b) Applicants for approval of new bank, trust company, state savings or mutual savings bank, or savings and loan associations charters shall pay an investigation fee of \$20,000 for each application. Bank charter applications qualifying for expedited processing will be assessed an investigation fee of \$10,000. Applicants for approval of a new credit card bank or a special purpose bank shall pay an investigation fee of \$25,000. Prior to commencing business, successful applicants shall pay a supervisory and examination fee covering the preopening organizational supervision and initial operating supervision of the new institution in the amount of \$5,000.

(c) Applicants for approval for a company to become a bank holding company, other than for a de novo bank, may receive regular or expedited processing. Regular processing is \$3,500; expedited processing is \$2,500. Formation of a holding company simultaneously with formation of a de novo bank requires a regular processing fee of \$3,500, which, if applicable, is reduced by the fee for a new state charter.

(d) Applicants for a bank holding company to acquire five (5) percent or more but less than twenty-five (25) percent of the outstanding voting stock of a financial institution, or for review of a change of control shall pay an investigation fee of \$3,500 for each such application, provided, however, the Commissioner may waive or reduce such investigation fee in the case of a merger under emergency conditions as determined by the Department or in the case of interstate transactions where a comparable fee has already been paid for an earlier, related transaction among the same entities.

(e) Applicants for a bank holding company to acquire twenty-five (25) percent or more of the outstanding voting stock of a financial institution, shall pay an investigation fee of \$6,000. Expedited processing for these acquisitions is \$4,500. The fee for an intrastate and a covered interstate merger of banks or bank holding companies is \$4,500, reduced by a Department fee for a simultaneous acquisition if it has been paid. The Commissioner, however, may waive or reduce such investigation fee in the case of a merger under emergency conditions as determined by the Department or, in the case of interstate transactions where a comparable fee has already been paid for an earlier, related transaction among the same entities.

(f) Applicants for license to operate an international agency shall pay an investigation fee of \$5,000. In the event the application is denied, \$2,000 representing the applicant's initial license fee shall be refunded. International bank agencies and domestic international banking facilities shall pay an annual license or registration fee of \$2,000, on the first day of April of each year. Renewal licenses shall be issued for a twelve month period.

(g) Depository financial institutions, except credit card banks, bankers banks, and central credit unions shall pay an annual supervision fee as part of the examination fee prescribed in Rule 80-5-1-.03.

(h) All other financial institutions supervised by the Department who are not already covered by this chapter, except international agencies, shall pay an annual supervision fee of \$500, due on or before January 31 of each year.

(i) The investigation fee for conversion to a state bank is \$20,000.

(j) If a bank satisfies the banking factors set out in the Department's Statement of Policies, the fee to exercise a single trust power is \$250 and the processing is expedited to 7 days. A completed letter form application to exercise limited trust powers will be reviewed in 15 days; the fee is \$750. A bank that desires to exercise full trust powers files a regular application including a copy of the FDIC application. A complete application will be reviewed in 30 days; the fee is \$1,250.

(k) Regular applications to establish or acquire a subsidiary of a bank shall require a fee of \$500. Banks qualified to file expedited applications according to the criteria in DBF Rule [80-1-1-.10](#) are not subject to a fee.

(3) General rules for fees; holding companies with subsidiaries in Georgia.

(a) Each bank holding company supervised by the Department shall pay on or before September 15 an annual supervision fee of \$1,000. Each Georgia bank holding company or a holding company that owns a Georgia bank shall pay each year on or before the date the holding company supervision fee is due an additional \$500 for each Georgia non-bank subsidiary corporation of the bank holding company, excluding subsidiaries assessed pursuant to Rule 80-5-1-.03(1)(a) and subsidiaries paying an annual license or registration fee pursuant to Rule [80-5-1-.02\(4\)](#), as of June 30 preceding the supervision fee due date.

(b) Applications covering more than one transaction (branch, acquisition, merger, etc.), which require the Department to separately analyze each application shall pay the applicable fee for each transaction.

(c) The annual assessment rates included in subparagraph (1)(a) above will normally be used in connection with any annual assessment of depository financial institutions having banking offices in more than one state including Georgia. The Commissioner, however, will have the discretion to deviate from the rates included in the assessment schedule and other rates and charges including application fees in order to facilitate or implement interstate efforts to regulate and supervise multi-state banks or for parity reasons.

Cite as Ga. Comp. R. & Regs. R. 80-5-1-.03

AUTHORITY: O.C.G.A. §§ [7-1-41](#); [7-1-61](#).

HISTORY: Original Rule entitled "Examination and Investigation Fees" adopted. F. Nov. 4, 1975; eff. Nov. 24, 1975.

Amended: F. June 8, 1976; eff. June 28, 1976.

Amended: F. June 9, 1980; eff. July 1, 1980, as specified by the Agency.

Amended: F. July 13, 1981; eff. Aug. 2, 1981.

Repealed: New Rule of the same title adopted. F. May 24, 1982; eff. June 13, 1982.

Repealed: New Rule of the same title adopted. F. June 28, 1984; eff. Aug. 1, 1984, as specified by the Agency.

Amended: F. June 10, 1988; eff. June 30, 1988.

Amended: F. Sept. 4, 1990; eff. Sept. 24, 1990.

Amended: F. Oct. 15, 1993; eff. Nov. 4, 1993.

Amended: Rule retitled "Examination, Supervision, Application and Other Fees". F. Aug. 26, 1997; eff. Sept. 15, 1997.

Amended: Rule retitled "Examination, Supervision, Registration, Application and Other Fees for Banking Activities and Nonbank Subsidiaries of Banks or Holding Companies". F. July 14, 1998; eff. Aug. 3, 1998.

Amended: Rule retitled "Examination, Supervision, Registration, Application and Other Fees for Financial Institutions and Nonbank Subsidiaries of Banks or Holding Companies." F. July 12, 1999, eff. Aug. 1, 1999.

Amended: F. Dec. 6, 1999; eff. Dec. 26, 1999.

Amended: F. Dec. 18, 2000; eff. Jan. 7, 2001.

Amended: F. July 28, 2003; eff. Aug. 17, 2003.

Amended: F. Sept. 1, 2004; eff. Sept. 21, 2004.

Amended: F. Aug. 15, 2007; eff. Sept. 4, 2007.

Amended: F. Aug. 4, 2008; eff. Aug. 24, 2008.

Amended: F. June 10, 2014; eff. June 30, 2014.

Amended: F. Dec. 5, 2014; eff. Dec. 25, 2014.

Amended: F. June 15, 2015; eff. July 5, 2015.

Amended: F. June 20, 2016; eff. July 10, 2016.

Amended: F. June 29, 2017; eff. July 19, 2017.

Amended: F. Aug. 19, 2020; eff. Sep. 8, 2020.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-5-1-.06 Fees for Credit Unions

(a) Applicants for approval by the department for the addition of a single geographic common bond group shall pay an investigation fee of \$1,000.

(b) Applicants for department approval of merger of two credit unions where neither is considered financially or otherwise unsafe or unsound shall pay an investigation fee of \$1,000.

(c) Applicants for department approval of conversion from a federal or out of state credit union to a state credit union shall pay an investigation fee of \$1,000.

(d) Applicants for department approval of a credit union subsidiary shall pay a processing fee of \$500.

(e) Applicants for department approval of conversion of a financial institution, other than a credit union, to a state credit union shall pay an investigation fee of \$1,000.

(f) Applicants for new branch offices or relocations of branches shall pay an investigation fee of \$1,250 for each application that is processed as a regular application. Applicants for new branch offices or relocations of branches are not required to pay an investigation fee for each application that is processed as an expedited application. A simple redesignation of an existing credit union location, which does not entail the closure or opening of a location, only requires a written application but does not require a fee.

(g) Applicants for approval of a new credit union shall pay an investigation fee of \$20,000 for each application.

(h) The department may in its discretion waive or reduce a fee based on the circumstances of the application.

Cite as Ga. Comp. R. & Regs. R. 80-5-1-.06

AUTHORITY: O.C.G.A. §§ [7-1-41](#); [7-1-61](#); [7-1-663](#).

HISTORY: Original Rule entitled "Fees for Credit Unions" adopted. F. Aug. 15, 2005; eff. Sept. 4, 2005.

Amended: F. Jun. 10, 2014; eff. Jun. 30, 2014.

Amended: F. June 15, 2015; eff. July 5, 2015.

Amended: F. July 9, 2019; eff. July 29, 2019.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-5-1-.07 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 80-5-1-.07

AUTHORITY: O.C.G.A. § [7-1-61](#).

HISTORY: Original Rule entitled "License Renewal Periods and Requirements for Mortgage Brokers and Lenders" adopted. F. Dec. 15, 2008; eff. Jan. 4, 2009.

Repealed: New Rule entitled "License Renewal Periods and Requirements for Mortgage Brokers, Mortgage Lenders, and Mortgage Originators" adopted. F. Aug. 17, 2009; eff. Sept. 6, 2009.

Amended: F. Aug. 2, 2011; eff. Aug. 22, 2011.

Amended: F. June 20, 2016; eff. July 10, 2016.

Repealed: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-5. FINANCIAL INSTITUTIONS

Subject 80-5-2. TEMPORARY CHANGES IN OPERATING HOURS; CLOSINGS

80-5-2-.01 Temporary Changes in Operating Hours

(1) Any financial institution (except certain credit unions which operate under special operating hours authorized by Code Section [7-1-110](#)) desiring to change temporarily the days that it normally conducts business may do so by posting a notice at least thirty (30) days in advance of the change at the impacted locations as well as on the financial institution's website, provided the institution has at least one office open for business during at least five days of each week in which the temporary change is to take place.

(2) In the discretion of its Board of Directors or Chief Executive Officer, and after notice to the Department, any financial institution may close in commemoration of local events generally recognized by the local governments in the communities they serve or in memory of deceased directors, officers, or employees of such financial institutions, provided such financial institutions are open for at least half of their normal business hours on that date and notice is posted with regard to such closing at the locations that will be closed as well as on the financial institution's website at least twenty-four (24) hours in advance.

Cite as Ga. Comp. R. & Regs. R. 80-5-2-.01

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-110](#).

HISTORY: Original Rule entitled "Temporary Changes in Operating Hours" was filed on December 19, 1983; effective January 8, 1984.

Amended: F. Jul. 14, 1998; eff. Aug. 3, 1998.

Amended: F. Jul. 12, 1999; eff. Aug. 1, 1999.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-5-2-.02 Temporary Closings

(1) Whenever, in the discretion of a financial institution's Board of Directors or Chief Executive Officer, the safety of the customers, employees, or assets of a financial institution would be in jeopardy due to civil disorder, fire, acts of God, disruption or failure of utility, transportation, communication or information systems, or whenever a financial institution is rendered unable to conduct business due to like circumstances, the financial institution shall not be obligated to open for business.

(2) The financial institution shall make a continuing diligent effort to contact the Department or the Commissioner with regard to the emergency and for further direction as to a temporary closing.

(3) If unable to reach the Department, the Chief Executive Officer or a majority of the Board of Directors may, by implied order of the Commissioner, close all or part of the institution for such period as is necessary to alleviate the emergency. It is not expected that this period should exceed 24 hours. Upon being contacted by a financial

institution, the Department shall either concur in the temporary closing or order the institution to reopen in normal or modified form as appropriate under the circumstances.

(4) The Commissioner or the Governor may declare that a state of emergency exists and such declaration shall authorize the closing of one or more financial institutions in this State in the impacted area. Whenever such closings are declared, the declaration will be disseminated through the various news media of the State or by specific direction to affected financial institutions. Such declaration shall be effective until modified by executive order of the Governor or, if the emergency was declared by the Commissioner, until the Commissioner or the Governor declares the emergency has ceased and affected institutions may reopen.

Cite as Ga. Comp. R. & Regs. R. 80-5-2-.02

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-111](#).

HISTORY: Original Rule entitled "Emergency Closings" was filed on December 19, 1983; effective January 8, 1984.

Amended: F. Jul. 14, 1998; eff. Aug. 3, 1998.

Amended: Rule retitled "Temporary Closings". F. Jul. 12, 1999; eff. Aug. 1, 1999.

Amended: F. June 20, 2016; eff. July 10, 2016.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-5-2-.03 Permanent Closings

(1) The management of a financial institution may permanently close a banking location in accordance with O.C.G.A. § [7-1-110.1](#) by satisfying the following requirements:

(a) Deliver to the Department a copy of the federal notice, or a letter form notification that contains the following information:

(i) The banking location to be closed;

(ii) A statement of the reason for the proposed closing and a summary of any supporting information; and

(iii) The proposed closing date.

(b) The financial institution shall post a notice of intent to close in a conspicuous place at the banking location to be closed and on the financial institution's website for at least 30 days prior to the proposed closing date. Such notice must remain posted for at least 30 consecutive days. Within two days of providing these notices, the financial institution must forward a copy of the notice posted at the banking location as well as the disclosure contained on its website to the Department.

Cite as Ga. Comp. R. & Regs. R. 80-5-2-.03

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-110.1](#).

HISTORY: Original Rule entitled "Effects of Compliance" was filed on December 19, 1983; effective January 8, 1984.

Repealed: New Rule entitled "Permanent Closings" adopted. F. Jul. 14, 1998; eff. Aug. 3, 1998.

Amended: F. Jul. 12, 1999; eff. Aug. 1, 1999.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-5-2-.04 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 80-5-2-.04

AUTHORITY: O.C.G.A. § [7-1-61](#).

HISTORY: Original Rule [80-5-2-.03](#) entitled "Effects of Compliance" renumbered to 80-5-2-.04. F. Jul. 14, 1998; eff. Aug. 3, 1998.

Amended: F. Jul. 1, 1999; eff. Aug. 12, 1999.

Repealed: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-6. HOLDING COMPANIES

Subject 80-6-1. HOLDING COMPANIES

80-6-1-.04 Audits

(1) Every Georgia bank holding company or a holding company that owns a Georgia bank and its non-banking subsidiaries shall be audited at least annually by independent public accountants in accordance with generally accepted auditing standards with copies of such audit maintained on file in the offices of the holding company.

(2) Audit reports in which the auditor expresses an unqualified opinion shall be provided to the Department upon request. Audit reports in which the auditor 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 holding company. 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. Failure to obtain the required opinion audit, or the auditor's report thereof, shall be reported to the Department within fifteen (15) days of discovery.

Cite as Ga. Comp. R. & Regs. R. 80-6-1-.04

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-607](#).

HISTORY: Original Rule entitled "Audits" adopted. F. June 8, 1976; eff. June 28, 1976.

Amended: F. Dec. 3, 1980; eff. Jan. 2, 1981, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Oct. 12, 1989; eff. Nov. 1, 1989.

Amended: F. July 14, 1998; eff. Aug. 3, 1998.

Amended: F. Aug. 22, 2006; eff. Sept. 11, 2006.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-11. RESIDENTIAL MORTGAGE BROKERS AND LENDERS

Subject 80-11-1. DISCLOSURE, ADVERTISING AND OTHER REQUIREMENTS

80-11-1-.02 Advertising Requirements

Any advertisement of a mortgage loan that is subject to regulation under O.C.G.A. Title 7, Chapter 1, Article 13 and that is made, published, disseminated or circulated in this state shall comply with the requirements set forth below.

- (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 and unique identifier of the licensee or registrant advertising the mortgage loan, which name and unique identifier shall conform with the name and unique identifier on record with the Department of Banking and Finance.
- (d) Reserved.
- (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.

Cite as Ga. Comp. R. & Regs. R. 80-11-1-.02

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-1001.1](#); [7-1-1004.3](#); [7-1-1012](#); [7-1-1016](#).

HISTORY: Original Rule entitled "Advertising Requirements" adopted. F. Oct. 22, 1993; eff. Nov. 11, 1993.

Amended: F. Sept. 19, 1994; eff. Oct. 9, 1994.

Amended: F. Jan. 27, 1995; eff. Feb. 16, 1995.

Amended: F. July 14, 1998; eff. Aug. 3, 1998.

Amended: F. July 28, 2003; eff. Aug. 17, 2003.

Amended: F. Aug. 22, 2006; eff. Sept. 11, 2006.

Amended: F. Aug. 15, 2007; eff. Sept. 4, 2007.

Amended: F. Aug. 17, 2009; eff. Sept. 6, 2009.

Amended: F. Nov. 2, 2010; eff. Nov. 22, 2010.

Amended: F. June 20, 2016; eff. July 10, 2016.

Amended: F. Dec. 20, 2019; eff. Jan. 9, 2020.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-11-1-.03 Place of Business Requirements; Definitions

(1) Each licensee with a physical place of business in Georgia shall provide to the department a complete listing of all such offices or locations.

(2) Reserved.

(3) A "physical place of business" in this state shall mean an enclosed room or building where a licensee alone, if it has no employees, otherwise where one or more supervised employees conduct a residential mortgage business.

(4) A location, including a personal residence, shall be considered a branch for purposes of the Georgia Residential Mortgage Act if any of the following conditions are met:

(a) The location address is printed on or contained in letterheads, business cards, announcements, advertisements, solicitations for business, flyers, brochures, or the like;

(b) Georgia consumers are received at the location or are directed to deliver any information by any means to the location;

(c) Loan files, applications (approved, denied, pending and pre-qualification) and any other books and records required by Georgia Residential Mortgage Act or department rules are located at the location; or

(d) The licensee directly or indirectly reimburses for rent, utility bills or other expenses incurred for use of a location as a branch.

(5) Notwithstanding Paragraph (4) of this rule, a location, including a personal residence, will not be deemed a branch and will be required to have its own license if:

(a) It is a franchise arrangement;

(b) It is separate entity that may be referred to as a "net branch," and it is an independent business or mortgage operation which is not under the direct control, management, supervision and responsibility of the licensee;

(c) The licensee is not the lessee or owner of the branch and the branch is not under the direct and daily ownership, control, management, and supervision of the licensee;

(d) All employees exempt from individual licensing, including the branch manager, do not meet the requirements for such exemption in Article 13 and the rules of the department;

(e) All assets and liabilities of the branch are not assets and liabilities of the licensee and income and expenses of the branch are not income and expenses of the licensee and are not properly accounted for in the financial records and tax returns of the licensee; or

(f) All practices, policies, and procedures, including but not limited to those relating to employment and operations, are not originated and established by the licensee and are not applied consistently to the main office and all branches.

(6) An unstaffed storage facility shall not constitute a branch.

(7) The "main office" is the location indicated on the application as the principal place of business, where the books and records are kept.

(8) The mailing address of a licensee or registrant may be different from the main office address but shall be the address where the department is authorized to send all correspondence, official notices and orders. The licensee or registrant is responsible for keeping the department informed of any changes in this mailing address.

(9) The "contact person for consumer complaints" referred to in O.C.G.A. § [7-1-1006](#) shall be a person who is available and has authority to investigate and resolve questions and complaints from consumers which have come to the department for resolution. Each licensee must keep the department informed of the name and telephone number of the current contact person.

Cite as Ga. Comp. R. & Regs. R. 80-11-1-.03

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-1012](#).

HISTORY: Original Rule entitled "Place of Business Requirements" adopted. F. July 14, 1998; eff. Aug. 3, 1998.

Amended: Rule retitled "Place of Business Requirements; Definitions." F. Dec. 6, 1999; eff. Dec. 26, 1999.

Amended: F. Oct. 22, 2001; eff. Nov. 11, 2001.

Amended: F. July 28, 2003; eff. Aug. 17, 2003.

Amended: F. Sept. 1, 2004; eff. Sept. 21, 2004.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-11. RESIDENTIAL MORTGAGE BROKERS AND LENDERS

Subject 80-11-2. BOOKS AND RECORDS

80-11-2-.01 Mortgage Broker and Lender Location Requirement and Minimum Retention Period

(1) Any mortgage broker or lender required to be licensed or registered under Article 13 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated ("licensee" or "registrant") must maintain required books, accounts and records at the principal place of business. Should a licensee or registrant wish to maintain such records elsewhere, it must notify the department in writing via the Nationwide Multistate Licensing System and Registry prior to said books, accounts, and records being maintained in any place other than the designated principal place of business.

(2) Books, accounts and records maintained at a location other than the principal place of business shall be made available to the department within five (5) business days from the date of written request by the department and at a reasonable and convenient location acceptable to the department.

(3) "Principal place of business" means the location designated as the main office by the licensee or registrant in the initial written application for licensure or registration or as amended thereafter in writing to the department.

(4) All books, records and accounts required by Rule [80-11-2-.02\(1\)\(b\), \(c\), \(d\), \(e\), \(f\), \(g\), \(h\), \(j\), \(m\) and \(n\)](#) and Rule [80-11-2-.03](#) must be maintained for a period of five (5) years. All books, records and accounts required by Rule [80-11-2-.02\(1\)\(a\), \(i\), \(k\) and \(l\)](#) and by Rule [80-11-2-.04](#) must be maintained and kept complete for a period of five (5) years from the final disposition of the loan application to which the records relate (e.g. five (5) years from date application denied or cancelled or five years from date mortgage loan closed).

(5) Any books, accounts or records required to be maintained by Chapter 80-11-2 of the Rules of the Department of Banking and Finance may be maintained in their original form, on microfiche or other electronic media, provided:

(i) that the records shall be made available to the department as provided in this Rule; and

(ii) at the request of the department, the records shall be printed on paper for inspection or examination.

(6) (a) The penalty for maintaining books, accounts and records at a location other than the principal place of business without written notification to the department may be suspension of the license or registration, other appropriate administrative action or fine.

(b) 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.

Cite as Ga. Comp. R. & Regs. R. 80-11-2-.01

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-1012](#).

HISTORY: Original Rule entitled "Location Requirement and Minimum Retention Period" adopted. F. July 11, 1994; eff. July 31, 1994.

Amended: F. July 14, 1998; eff. Aug. 3, 1998.

Amended: F. July 28, 2003; eff. Aug. 17, 2003.

Amended: F. Aug. 15, 2005; eff. Sept. 4, 2005.

Amended: F. Aug. 4, 2008; eff. Aug. 24, 2008.

Repealed: New Rule entitled "Mortgage Broker and Lender Location Requirement and Minimum Retention Period" adopted. F. Aug. 17, 2009; eff. Sept. 6, 2009.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-11-2-.02 Minimum Requirements for Books and Records

(1) Any mortgage broker or lender required to be licensed or registered under Article 13 of Chapter 1 of Title 7 ("licensee" or "registrant") must maintain the following books, accounts and records:

- (a) Copies of all disclosure documents required by Rule [80-11-1-.01](#);
- (b) Samples of advertisements as required by Rule [80-11-1-.02](#);
- (c) Copies of all written complaints by customers and written records of disposition;
- (d) Copies of examination reports prepared by any agency, division or corporate instrumentality of the United States, the State of Georgia or any other state, which reports pertain to the mortgage brokerage and/or lending business of the licensee or registrant and are not prohibited from being disclosed to the Department of Banking and Finance by state or federal law;
- (e) Copies of reports required to be prepared and/or submitted by the licensee or registrant to any agency, division, or corporate instrumentality of the United States, the State of Georgia or any other state, which reports pertain to the mortgage brokerage and/or lending business of the licensee or registrant and are not prohibited from being disclosed to the Department of Banking and Finance by state or federal law;
- (f) Copies of all payroll records, including federal and state withholding tax forms, W-2's, and 1099 forms filed with the Internal Revenue Service by the licensee or registrant, or its agent on behalf of individuals employed by the licensee or registrant or on behalf of individuals acting as independent contractors in the mortgage brokerage and/or lending business of the licensee or registrant;
- (g) A general ledger and subsidiary records sufficient to produce, when requested by the department, an accurate monthly statement of assets and liabilities and a cumulative profit and loss statement for the current operating year;
- (h) All checkbooks, bank statements, deposit slips and canceled checks which pertain to the mortgage brokerage and/or lending business of the licensee or registrant;
- (i) Supporting documentation for all expenses and fees paid by the mortgage broker on behalf of the customer, which documentation indicates the amount paid and the date paid;
- (j) Copies of all credit report bills received from all credit reporting agencies for the most recent five year period;
- (k) Documentation to indicate a consumer had a choice of attorney, if attorneys' fees are intended to be excluded from a points and fees calculation under the Georgia Fair Lending Act;
- (l) An indication of whether each loan has points and fees of 5% or more, as calculated under the Georgia Fair Lending Act;

(m) Documentation to support the source and purpose for each receipt of monies in any form in an amount greater than \$100 and documentation to identify the recipient and purpose of each payment of monies in any form in an amount greater than \$100 by the licensee or registrant in its mortgage brokerage and/or lending business in order that the receipts may be reconciled to bank deposits and to books of the licensee or registrant;

(n) Employee file for each employee. The employee file must contain all documents related to hiring the employee, including criminal background check, date employment began, and a print out or screenshot confirming that the Department's public records were reviewed on NMLS Consumer Access to verify eligibility for employment with such review taking place prior to the date of hire; and

(o) Copies of all submitted mortgage call reports, including any amended reports, for the previous five (5) years and all related work papers and supporting documentation that support the accuracy of the information contained in the mortgage call reports.

(2) Failure to maintain the books, accounts and records required under paragraph (1) above may result in suspension of the license or registration or other appropriate administrative action and will subject the licensee or registrant to fines in accordance with regulations prescribed by the department.

Cite as Ga. Comp. R. & Regs. R. 80-11-2-.02

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-1012](#).

HISTORY: Original Rule entitled "Minimum Requirements for Books and Records" adopted. F. July 11, 1994; eff. July 31, 1994.

Amended: F. July 14, 1998; eff. Aug. 3, 1998.

Amended: F. June 8, 2000; eff. June 28, 2000.

Amended: F. Sept. 1, 2004; eff. Sept. 21, 2004.

Amended: F. Aug. 15, 2005; eff. Sept. 4, 2005.

Amended: F. Aug. 4, 2008; eff. Aug. 24, 2008.

Amended: F. Aug. 17, 2009; eff. Sept. 6, 2009.

Amended: F. Nov. 2, 2010; eff. Nov. 22, 2010.

Amended: F. Jun. 10, 2014; eff. Jun. 30, 2014.

Amended: F. June 15, 2015; eff. July 5, 2015.

Amended: F. July 9, 2019; eff. July 29, 2019.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-11. RESIDENTIAL MORTGAGE BROKERS AND LENDERS

Subject 80-11-3. ADMINISTRATIVE FINES AND PENALTIES

80-11-3-.01 Administrative Fines

(1) 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 Article 13 of Chapter 1 of Title 7 ("licensee" or "registrant"). 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 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) 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) 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 one thousand dollars (\$1,000) 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) (a) Maintenance of Loan Files. 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 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.

(b) Maintenance of Service Files. Any person who is required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage lender who fails to maintain a servicer file for each mortgage loans it services, as required by Rule [80-11-6-.04\(1\)\(b\)](#), 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. Pursuant to Rule [80-5-1-.04](#) and O.C.G.A. § [7-1-1011](#), any person who is the collecting agent at a closing of a mortgage loan transaction, is liable for payment of the \$10.00 fee to the Department. The remittance of any \$10.00 fees required to be collected after the date on which they are due shall subject the collecting agent to a late payment fee of one hundred dollars (\$100) for each due date missed. If the Department finds that the collecting agent has not, through negligence or otherwise, submitted \$10.00 fees within six months of the due date, the collecting agent will be subject to an additional fine of twenty (20) percent of the total amount of \$10.00 fees required to be collected for the applicable period. Repeated failures to submit \$10.00 fees may be grounds for revocation of license.

(14) Repealed. Reserved.

(15) Failure to Timely Report Certain Events. 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 any of the events enumerated in 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:

(a) inaccurate or false identification of applicant's employer;

(b) significant discrepancy between applicant's stated income and actual income;

- (c) omission of a loan to applicant, listed on loan application, which was closed through same lender or broker;
- (d) false or materially overstated information regarding depository accounts;
- (e) false or altered credit report; and
- (f) 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) Repealed. Reserved.

(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 dollar (\$5,000) fine. Refusal shall require at least two attempts by the Department to schedule an examination or investigation.

(22) Failure to Review Public Records Prior to Hiring. Any licensee who fails to examine the Department's public records on NMLS Consumer Access to determine if a job applicant is subject to an order set forth in O.C.G.A. § [7-1-1004\(o\)](#) prior to hiring such individual shall be subject to a fine of one thousand dollars (\$1,000) for each employee on whom the public records were not timely examined.

(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 Executive Officers. Any licensee who fails to notify the Department of a change in executive officers of the company 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 dollar (\$1,000) fine for each employee for whom the background information was not timely submitted.

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

(29) Failure to Timely Disclose Change in Affiliation of Natural Person that Executed Lawful Presence Affidavit and Submission of New Affidavit. Any licensed mortgage lender, mortgage broker, or 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 licensee or 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 licensed mortgage broker, mortgage lender, or 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 licensee or registrant, shall be subject to a fine of one thousand dollars (\$1,000) per day until the new affidavit is provided.

(30) Failure to Timely Update Information on the Nationwide Multi-State Licensing System and Registry. Any licensed mortgage broker, mortgage lender, or registrant that fails to update its information on the Nationwide Multi-State Licensing System and Registry ("NMLSR"), including, but not limited to, amendments to any response to disclosure questions on an application or a licensee's or registrant's NMLSR MU-1, 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 control person of a licensed mortgage broker, mortgage lender, or registrant to update the individual's information on the NMLSR, including, but not limited to, amendments to any response to disclosure questions on the control person's NMLSR MU-2, within ten (10) business days of the date of the event necessitating the change, shall subject the licensed mortgage broker, mortgage lender, or registrant to a fine of one thousand dollars (\$1,000) per occurrence.

(31) Bank Secrecy Act. If the Department in the course of an examination or investigation, finds that a licensee that satisfies the definition of loan or finance company has failed to comply with the Currency and Foreign Transactions Reporting Act of 1970 and its related regulations, including those set forth at 31 CFR Chapter X (together, the "Bank Secrecy Act") or the requirements referred to in Rule [80-11-1-.06](#), such licensee shall be subject to a fine of one thousand dollars (\$1,000) for each instance of non-compliance.

Cite as Ga. Comp. R. & Regs. R. 80-11-3-.01

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-1001.1](#); [7-1-1004.1](#); [7-1-1012](#).

HISTORY: Original Rule entitled "Administrative Fines" adopted. F. July 14, 1998; eff. Aug. 3, 1998.

Amended: F. July 12, 1999; eff. Aug. 1, 1999.

Amended: F. Dec. 6, 1999; eff. Dec. 26, 1999.

Amended: F. June 8, 2000; eff. June 28, 2000.

Amended: F. Dec. 18, 2000; eff. Jan. 7, 2001.

Amended: F. Oct. 22, 2001; eff. Nov. 11, 2001.

Amended: F. July 28, 2003; eff. Aug. 17, 2003.

Amended: F. Sept. 1, 2004; eff. Sept. 21, 2004.

Amended: F. Aug. 15, 2005; eff. Sept. 4, 2005.

Amended: F. Aug. 22, 2006; eff. Sept. 11, 2006.

Amended: F. Aug. 15, 2007; eff. Sept. 4, 2007.

Amended: F. Aug. 4, 2008; eff. Aug. 24, 2008.

Amended: F. Aug. 17, 2009; eff. Sept. 6, 2009.

Amended: F. Aug. 2, 2011; eff. Aug. 22, 2011.

Amended: F. Sep. 18, 2012; eff. Oct. 8, 2012.

Amended: F. Nov. 7, 2013; eff. Nov. 27, 2013.

Amended: F. June 10, 2014; eff. June 30, 2014.

Amended: F. Dec. 5, 2014; eff. Dec. 25, 2014.

Amended: F. Jan. 6, 2016; eff. Jan. 26, 2016.

Amended: F. June 20, 2016; eff. July 10, 2016.

Amended: F. June 29, 2017; eff. July 19, 2017.

Amended: F. June 27, 2018; eff. July 17, 2018.

Amended: F. July 9, 2019; eff. July 29, 2019.

Amended: F. Dec. 20, 2019; eff. Jan. 9, 2020.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-11. RESIDENTIAL MORTGAGE BROKERS AND LENDERS

Subject 80-11-4. LICENSING

80-11-4.03 Licensing Requirements; Registrants; Exemptions; Term for Bond

(1) The Department will take appropriate action against all persons found to be improperly engaging in mortgage brokerage or lending activities without a license or valid exemption. In accordance with O.C.G.A. § [7-1-1018\(a\)](#), if proper evidence is provided to the Department within thirty (30) days of the date the Order is issued that shows the person had the proper license or was acting pursuant to a valid exemption at the time noted in the Order, the Order shall be rescinded by the Department.

(2) The exemption from licensing provided pursuant to O.C.G.A. § [7-1-1001\(14\)](#) to an employee of a licensee or exemptee applies only to natural persons who meet all of the following criteria:

(a) An employee must be employed by just one licensee or exemptee and work exclusively for that person;

(b) An employee may not solicit, process, or place loans for anyone else while claiming the exemption;

(c) An employee's procedures and activities must be supervised by the licensee or exemptee on a daily basis, and the licensee or exemptee is responsible for the actions of such employees. This requirement is intended to make it clear that employers control and are accountable for the actions of their employees; and

(d) An employee may not be paid or compensated for performance of mortgage activity as an independent contractor or on a 1099 basis, except as specifically provided for in paragraph (3) of this rule.

(3) The exemption from licensing provided pursuant to O.C.G.A. § [7-1-1001\(17\)](#) only applies to a natural person acting in the capacity as an independent contractor working under an exclusive written contract for a licensee that is a wholly owned subsidiary of a financial holding company or bank holding company, savings bank holding company, or thrift holding company, under conditions and limitations as set forth in O.C.G.A. § [7-1-1001\(17\)](#) and applies only if all of the following criteria are met:

(a) The independent contractor may only work in the capacity of a mortgage broker and may only broker loans to the licensed subsidiary or its affiliates;

(b) The licensee must provide annually, or more often if required by the Department, a list of each of the independent contractors brokering loans for the licensee under this exemption. This list must be submitted electronically in a form prescribed by the Department. The licensee must certify at the time of submission that each independent contractor brokering loans for them under this exemption are working under a current Undertaking of Accountability, in a form prescribed by the Department;

(c) The surety bond required pursuant to O.C.G.A. § [7-1-1001\(17\)](#) must be in full force and effect at all times, unless or until such time as the licensee is no longer licensed. In the event that the licensee is no longer licensed, all independent contractors brokering loans for the licensee as independent contractors under this exemption must cease all mortgage brokerage activity immediately upon termination of said license. In the event that the required surety bond coverage falls below the amounts required by O.C.G.A. § [7-1-1001\(17\)](#), the licensee must immediately provide coverage sufficient to meet the requirements as set forth therein, or the license will be subject to revocation

or suspension. Adequacy of bond coverage will be determined annually by the Department based on the list of independent contractors as provided by the licensee in Rule 80-11-4-.03(3)(b).

(4) Registrants shall complete all information as indicated on the Department's application. Registrants must submit financial information as provided in O.C.G.A. §§ [7-1-1003.2](#) and [7-1-1010](#), are subject to books and records requirements as provided in O.C.G.A. § [7-1-1009](#), and must submit an annual fee to the Department. Registrants must provide updated consumer contact information to the Department, and are responsible for resolving consumer complaints satisfactorily and in conformity with the Department's guidelines and timeframes. Fines will apply for failure to comply with any Georgia mortgage laws or rules.

Cite as Ga. Comp. R. & Regs. R. 80-11-4-.03

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-1003.2](#); [7-1-1012](#).

HISTORY: Original Rule entitled "Licensing Requirements; Employees Exemption" adopted. F. June 8, 2000; eff. June 28, 2000.

Amended: Rule retitled "Licensing Requirements; Employee Exemption; Term for Bond" adopted. F. Oct. 22, 2001; eff. Nov. 11, 2001.

Amended: F. July 28, 2003; eff. Aug. 17, 2003.

Repealed: New Rule entitled "Licensing Requirements; Registrants; Exemptions; Term for Bond" adopted. F. Sept. 1, 2004; eff. Sept. 21, 2004.

Repealed: New Rule entitled "Licensing Requirements; Registrants; Exemptions; Term for Bond" adopted. F. Aug. 22, 2006; eff. Sept. 11, 2006.

Amended: F. Aug. 15, 2007; eff. Sept. 4, 2007.

Amended: F. Aug. 17, 2009; eff. Sept. 6, 2009.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-11-4-.05 Knowing Purchase, Sale or Transfer of Loan or Loan Application from Unlicensed Entity, Mortgage Loan Originator Sponsorship Excluded

(1) It is prohibited for any person to knowingly purchase, sell or transfer a mortgage loan or loan application to or from an unlicensed mortgage loan originator, mortgage lender or broker, unless that entity is exempt from licensure or qualified to operate under the temporary authority provisions of [12 U.S.C § 5117](#). It is expected that all persons who purchase loans use reasonable diligence to determine whether the entities they do business with are licensed or exempt from licensure. To that end, the department makes available through NMLS Consumer Access information as to whether an entity is licensed.

(2) Obtaining a copy of an entity's annual license shall not be sufficient evidence of a current license since revocation proceedings occur throughout the year.

(3) Failure by a licensee to exercise reasonable diligence to determine whether an entity is licensed or exempt from licensure may result in a fine or other administrative action, including, but not limited to, license revocation.

(4) The mere act of sponsoring an employee seeking licensure from the Department as a mortgage loan originator through the Nationwide Multistate Licensing System and Registry shall not be regarded in and of itself as engaging in the mortgage business with an unlicensed person as long as the applicant is not performing for the sponsoring licensee or registrant those regulated activities set forth in O.C.G.A. § [7-1-1000\(22\)](#) unless qualified to operate under the temporary authority provisions of [12 U.S.C. § 5117](#).

Cite as Ga. Comp. R. & Regs. R. 80-11-4-.05

AUTHORITY: O.C.G.A. §§ [7-1-1012](#); [7-1-1002](#).

HISTORY: Original Rule entitled "Knowing Purchase, Sale or Transfer of Loan or Loan Application from Unlicensed Entity" adopted. F. June 8, 2000; eff. June 28, 2000.

Amended: F. Dec. 18, 2000; eff. Jan. 7, 2001.

Amended: F. Aug. 17, 2009; eff. Sept. 6, 2009.

Amended: F. Aug. 2, 2011; eff. Aug. 22, 2011.

Amended: F. June 15, 2015; eff. July 5, 2015

Amended: F. June 20, 2016; eff. July 10, 2016.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-11-4-.08 Restrictions on Employment and Licensing

(1) No person who has been an officer, director, partner or ultimate equitable owner of a licensee that has had its license revoked, denied or suspended, may perform any of those roles at another licensee or registrant for five years from the date of the final order.

(2) Felony convictions; restrictions on the employee and the licensee:

(a) O.C.G.A. § [7-1-1004](#) provides that no person employed by or directing the affairs of any licensee may be a convicted felon. Licensees are obligated by that statute to do their own background checks on covered employees. Licensees, however, are responsible to see that no convicted felons are employed or direct the affairs of their business. The department administers fingerprint checks on officers and directors and others where needed.

(b) O.C.G.A. § [7-1-1004](#) provides for remedies to "cure" a felony conviction. These remedies must be completed and in place prior to employment. Hiring or continuing to employ a person with an unremedied felony conviction subjects a licensee to revocation of its license.

(c) If a licensee discovers that an employee or director/officer is a felon who has not satisfactorily "cured" the conviction, the violation of O.C.G.A. § [7-1-1004](#) must be immediately corrected or the license will be subject to revocation. Such individuals with felony convictions are ineligible for an employee exemption and are in violation of O.C.G.A. § [7-1-1019](#), also a felony, and O.C.G.A. §§ [7-1-1004](#) and [7-1-1002](#). The licensee employer is in violation of O.C.G.A. §§ [7-1-1004](#) and [7-1-1002](#).

(d) A cease and desist order to a person for failure to meet the employee exemption due to a violation of the felony provisions of O.C.G.A. § [7-1-1004](#) shall become final in 30 days without a hearing. Such a person must show within those 30 days, by certified court documents that the record is erroneous, or, that the "cure" provisions in O.C.G.A. § [7-1-1004](#) were completed prior to employment, in order to stop the order from becoming final. In the event such proof is provided, the order will be rescinded.

(3) Cease and desist orders may be issued against persons required to be licensees or registrants or against employees of those parties. All of the provisions of O.C.G.A. § [7-1-1018](#), including injunction, apply to actions against all such persons.

(4) The Department may regularly publish information identifying persons and natural persons to whom final administrative actions have been issued.

Cite as Ga. Comp. R. & Regs. R. 80-11-4-.08

AUTHORITY: O.C.G.A. §§ [7-1-61](#); [7-1-1004](#); [7-1-1012](#); [7-1-1018](#).

HISTORY: Original Rule entitled "Restrictions on Employment and Licensing" adopted. F. July 28, 2003; eff. Aug. 17, 2003.

Amended: F. Aug. 15, 2005; eff. Sept. 4, 2005.

Amended: F. Aug. 15, 2007; eff. Sept. 4, 2007.

Amended: F. Aug. 2, 2011; eff. Aug. 22, 2011.

Amended: F. June 15, 2015; eff. July 5, 2015.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

80-11-4-.12 License Renewal Periods and Requirements for Mortgage Brokers, Mortgage Lenders, and Mortgage Originators

(a) For purposes of this rule the Nationwide Multistate Licensing System and Registry (NMLSR) is defined as a uniform multi-state administration of an automated licensing system for mortgage brokers, mortgage lenders, and mortgage loan originators. The department's participation in 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 Georgia Residential Mortgage 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.

Cite as Ga. Comp. R. & Regs. R. 80-11-4-.12

AUTHORITY: O.C.G.A. § [7-1-1003.5](#).

HISTORY: Original Rule entitled "License Renewal Periods and Requirements for Mortgage Brokers, Mortgage Lenders, and Mortgage Originators" adopted. F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-11. RESIDENTIAL MORTGAGE BROKERS AND LENDERS

Subject 80-11-5. MORTGAGE LOAN ORIGINATOR LICENSURE AND OTHER REQUIREMENTS

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

(1) 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 by the Department through the Nationwide Multistate Licensing System and Registry ("NMLSR") or unless qualified to operate under the temporary authority provisions of [12 U.S.C. § 5117](#).

(2) An applicant for mortgage loan originator's 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, except that an applicant qualified to operate under the temporary authority provisions of [12 U.S.C. § 5117](#) shall be subject to administrative action to deny the license application. In the event the applicant wishes to submit a new application after the application has been administratively withdrawn or denied, then the applicant shall be required to submit a new application as well as pay all associated fees. 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](#).

(7) An application for a mortgage loan originator license, which is missing material information, shall be held in an incomplete status for a period of five (5) business days after the issuance of written notice by the Department or NMLSR specifying the identified deficiency. If any such deficiency remains outstanding for more than five (5)

business days, the license application will be considered abandoned by the applicant and will be administratively withdrawn by the Department. Notwithstanding the foregoing, an applicant qualified to operate under the temporary authority provisions of [12 U.S.C. § 5117](#), or who purports to be so qualified, shall be subject to administrative action to deny the license application at any time. In the event the applicant wishes to submit a new application after it has been administratively withdrawn or denied, then the applicant shall be required to submit a new application as well as pay all associated fees.

Cite as Ga. Comp. R. & Regs. R. 80-11-5-.01

AUTHORITY: O.C.G.A. §§ [7-1-1001.1](#); [7-1-1002](#); [7-1-1003.2](#); [7-1-1004](#).

HISTORY: Original Rule entitled "Mortgage Loan Originator Licensure Requirements" adopted. F. Aug. 17, 2009; eff. Sept. 6, 2009.

Amended: F. Aug. 2, 2011; eff. Aug. 22, 2011.

Amended: F. June 10, 2014; eff. June 30, 2014.

Amended: F. June 20, 2016; eff. July 10, 2016.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-13. TRUST COMPANIES

Subject 80-13-1. TRUST COMPANIES

80-13-1-.13 Dividends

(1) The Board of Directors of any trust company may declare and the trust company may pay dividends on its outstanding capital stock without any requirement to notify the Department or request the approval of the Department if the aggregate amount of dividends declared or anticipated to be declared in the calendar year does not:

(a) exceed fifty (50) percent of the net income, in accordance with Generally Accepted Accounting Principles, that is attributable solely to a trust company that is a Subchapter C-Corporation for the previous calendar year; or

(b) exceed seventy-five (75) percent of the net income, in accordance with Generally Accepted Accounting Principles, that is attributable solely to a trust company that is a Subchapter S-Corporation for the previous calendar year.

(2) Any proposed dividend to be declared by the Board of Directors of a trust company in excess of the amount authorized by section (1) of this Rules must be approved, in writing, by the Department prior to the payment thereof pursuant to the provisions of Section [7-1-460\(a\)\(3\)](#) of the Official Code of Georgia. Requests for approval of dividends shall be on forms prescribed by the Department.

Cite as Ga. Comp. R. & Regs. R. 80-13-1-.13

AUTHORITY: O.C.G.A. § [7-1-61](#).

HISTORY: Original Rule entitled "Dividends" adopted. F. July 9, 2019; eff. July 29, 2019.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-14. INSTALLMENT LOANS

Subject 80-14-2. BOOKS AND RECORDS

80-14-2-.04 Installment Loan Files

(1) Each installment lender shall maintain a loan file for each installment loan borrower. If there are multiple borrowers on one loan, the loan documents shall be maintained in the loan file for the primary borrower. The files shall be maintained in an alphabetical or numerical sequence in the principal place of business or in each approved branch office where installment loans are made.

(2) Each loan file shall contain the following:

- (a) Copy of the loan application;
- (b) Copy of credit report if the credit report is pulled or ordered by the licensee;
- (c) Copy of the signed loan agreement;
- (d) Copy of all notes, bills of sale, or other evidence of indebtedness or security;
- (e) Copy of the signed acknowledgement of written disclosure statement as required by Rule [80-14-5-.01\(6\)](#); and
- (f) A separate account record for each installment loan transaction or renewal thereof, which shall include the following information:
 - (i) Name and address of the licensee;
 - (ii) Loan number;
 - (iii) Date of the loan;
 - (iv) Name and address of each borrower and co-maker or endorser, if any;
 - (v) Brief description of security, if any;
 - (vi) Actual amounts of individual charges shall be shown separately for interest and fees.;
 - (vii) Amount of loan;
 - (viii) If a renewal, the loan number of the previous loan;
 - (ix) Terms of repayment;
 - (x) Payments received showing:
 - A. Date of payment.
 - B. Amount paid on account.

C. Remaining balance.

D. Date to which account is paid.

E. Any late charge collected, and date of collection;

(xi) Date of final payment on loan or expiration; and

(xii) Record of the amount, date, and reason for any refunds.

Cite as Ga. Comp. R. & Regs. R. 80-14-2-.04

AUTHORITY: O.C.G.A. §§ [7-3-30](#), [7-3-51](#).

HISTORY: Original Rule entitled "Installment Loan Files" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-14. INSTALLMENT LOANS

Subject 80-14-4. LICENSING

80-14-4.01 Licensing Requirements and Exemptions

(1) The exemption from licensing provided pursuant to O.C.G.A. § [7-3-4\(5\)](#) to an employee of a licensee, affiliate of a licensee, or exemptee applies only to natural persons who meet all of the following criteria:

- (a) (i) An employee must be employed by only one licensee or exemptee and work exclusively for that person; or
- (ii) An employee of an affiliate of a licensee if prior written approval is obtained from the Department as provided in paragraph (2);
- (b) An employee may not advertise, solicit, offer, or make installment loans for anyone else while claiming the exemption;
- (c) An employee's procedures and activities must be supervised by the licensee or exemptee on a daily basis and the licensee or exemptee is responsible for the actions of such employees. This requirement is intended to make it clear that licensees, affiliates of licensees, and exemptees control and are accountable for the actions of their employees; and
- (d) An employee may not be paid or compensated for the performance of installment lending activity as an independent contractor or on a 1099 basis.

(2) If a licensee wishes to utilize any employees of an affiliate to perform installment lending activities on behalf of the licensee, either presently or in the future, the licensee shall submit a written request for approval to the Department. The request shall identify the name of the affiliate that is supplying the employees and provide sufficient ownership information to establish that the entities are affiliated. In evaluating the request, the Department will take into consideration, the licensee's compliance with laws and rules, consumer complaints, and the interconnectedness of the entities. In the event the Department approves the licensee's request both the licensee and the affiliate will be responsible for the actions of the affiliate's employees while the employees are performing work on behalf of the licensee.

(3) For purposes of this rule, an "affiliate" is a person, other than an individual, where the person, or an individual owner of the person, owns, controls, or holds with the power to vote 20 percent or more of any class of voting securities or other ownership interest of the other person and is licensed by the Department as an installment lender.

(4) A natural person shall not be required to obtain a license under the Georgia Installment Loan Act if such natural person is not in the business of making installment loans or employed by a licensee or exemptee, makes five (5) or fewer installment loans in any one calendar year, and uses his or her own funds to make such loans for his or her own investment. Any unlicensed natural person who makes installment loans without meeting all of the foregoing requirements is in violation of O.C.G.A. § [7-3-4](#) and may be subject to an order to cease and desist.

Cite as Ga. Comp. R. & Regs. R. 80-14-4-.01

AUTHORITY: O.C.G.A. §§ [7-3-4](#), [7-3-45](#).

HISTORY: Original Rule entitled "Licensing Requirements and Exemptions" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-14. INSTALLMENT LOANS

Subject 80-14-5. DISCLOSURE, CHARGES, AND MISCELLANEOUS

80-14-5.01 Loan Contract, Disclosures, and Limitations

(1) Loan Contract; Contents.

(a) Every consumer loan transaction shall be pursuant to a written loan contract which may include a loan voucher, itemized statement of loan and charges, and disclosure statement. The loan contract shall be signed by the consumer and delivered to the consumer at the time it is executed by him or her. The loan contract shall be contained in a single document which may contain more than one page. Printed terms shall be printed in at least six-point standard type.

(b) In connection with every consumer loan transaction, the consumer shall be furnished a written itemized statement in clear terms and easily understood language which shall show the following: the transaction date, a description of the subject matter and amount of the transaction, a description of the collateral, if any, securing the consumer's obligations; the identity and address of the consumer and the identity and address of the creditor; a schedule of the payments; the amount of the actual cash advanced to or on behalf of the consumer; the amount of each class of insurance carried and the premium paid thereon, stated separately for each class of insurance; and an itemization of the exact amount of the interest, fees, and other charges, if any, showing each element thereof.

(c) The loan contract shall include immediately above the place for the signature for the parties the following notice:

NOTICE TO CONSUMER

1. Do not sign this agreement if it contains any blank spaces.
2. You are entitled to an exact copy of all papers you signed.
3. You have the right at any time to pay in advance the full amount due under this agreement and under certain conditions to obtain a partial refund of the interest charges.
4. If credit life insurance is required, you have the right to purchase either level term life insurance or reducing term life insurance coverage.
5. You are not required to purchase noncredit insurance as a condition of obtaining this loan.

(d) The creditor shall furnish the consumer with an exact copy of the loan contract including any loan voucher, itemized statement of loan charges, and disclosure statement after the agreement has been signed.

(e) With respect to every installment loan transaction, the creditor shall, at the time of the transaction, furnish to the consumer a written statement of the maximum number of payments required, the amount of such payments, and the exact due dates upon which each payment is due. The maximum number of payments and the amount and date of such payments need not be separately listed if the payments are stated in terms of a series of scheduled amounts.

(2) The following practices are prohibited in the making of an installment loan pursuant to the Georgia Installment Loan Act:

(a) Blank Agreements. Every contract evidencing an installment loan transaction shall be completed as to all essential provisions prior to the signing thereof by the parties. No licensee shall induce, encourage, or otherwise permit the consumer to sign a contract containing blank spaces. Blank spaces inapplicable to a transaction must be completed in a manner which reveals their inapplicability.

(b) Negotiable Instruments. No licensee shall take or otherwise arrange for the consumer to sign an instrument payable "to order" or "to bearer", other than a check, as evidence of the credit obligation of the consumer in an installment loan transaction.

(c) Balloon and Irregular Payments. Except for single payment loans, no licensee shall enter into a contract which contains or anticipates a schedule of payments under which the final payment exceeds the amount of any other payment by more than \$1.00. A single payment loan shall be repayable on terms not to exceed ninety (90) days. All other installment payments shall be scheduled at regular intervals in equal amounts. Notwithstanding the requirement that payments be made at regular intervals for all loans except for single payment loans, the initial payment on an installment loan shall be due within a period not to exceed forty-five (45) days from the date on which the loan is made but no sooner than the regular interval for all other installment loan payments.

(d) Multiple Agreements to the following extent:

(i) No licensee shall engage in any activity in connection with an installment loan by use of multiple agreements or otherwise as a result of which the licensee charges, contracts for, or receives any other or further amount in connection with an installment loan than that authorized by law for a single loan of a comparable amount.

(ii) No licensee shall split a consumer loan into separate agreements by spouses if as a result thereof the licensee charges, contracts for, or receives any other or further amount in connection therewith than as authorized by law for a single loan of a comparable amount; provided, however, that the licensee may make an installment loan to spouses jointly and severally if such loans do not arise out of substantially the same transaction.

(e) Non-Judicial Enforcement. Notwithstanding any other provision of law, no term of an agreement shall constitute authorization for a licensee to take possession of collateral by other than legal process unless such authorization is clearly, prominently and conspicuously disclosed to the consumer immediately above the place for his signature on the loan agreement or as an addition to the "NOTICE TO CONSUMER" specified in subsection (1)(c) of this Rule.

(3) Insurance Permitted.

(a) With respect to any installment loan transaction, the licensee shall not require any insurance other than insurance covering the loss of or damage to any property in which the creditor is given a security interest. Credit life and credit accident and sickness insurance if required by the licensee, may be provided by the licensee through an insurer authorized to issue such insurance in this State.

(b) If a licensee requires any insurance permitted under subsection (1) above in any consumer loan transaction, the consumer shall be given written notice of the option of providing such insurance through an existing policy or a policy independently obtained and paid for by the consumer. If the licensee requires credit life insurance, the licensee shall give the consumer written notice of the consumer's right to choose either level term life insurance or reducing term life insurance coverage. The licensee may for reasonable cause before credit is extended decline the insurance provided by the consumer.

(c) Any insurance offered by an installment lender licensee shall comply with any and all applicable insurance laws and regulations.

(4) Discharge of Security Interests. When the consumer is indebted to a particular licensee for two or more consumer loans, any security interest held by such licensee for any particular loan shall be discharged when the loan for which the security interest is held is paid irrespective of indebtedness to the licensee by the consumer on other outstanding installment loans. As a general rule, security interests in terms of property shall terminate as the debt originally incurred with respect to each item is paid and in the case of the consolidation of two or more installment loans or any circumstances in which the general rule is not followed, the licensee may be required by the

Department to show that his conduct with respect to such loan transactions was just, fair and reasonable. For the purposes of this Rule, the renewal of a consumer loan shall not be deemed to be payment thereof.

(5) Electronic Transactions Permitted. The provisions of the Uniform Electronic Transactions Act, O.C.G.A. § [10-12-1](#) *et seq.*, applies to loans made pursuant to the Georgia Installment Loan Act. Nothing in the Act or the Department's rules shall be construed as prohibiting installment loans from being originated or closed remotely by a licensee.

(6) Other Purchases. If any loan within the Act is made in conjunction with the provision of any item, service, or commodity incidental to the advancement of funds, or if any other element is introduced into the transaction at the expense of the consumer, then the licensee shall provide to the consumer a separate written disclosure statement. The disclosure statement shall disclose, in no smaller than twelve-point type, the following:

(a) That the consumer does not have to purchase any such item, service, or commodity, or pay for such element, in order to obtain the loan.

(b) The cost to the consumer of any such purchase or element.

(c) The disclosure statement shall contain the consumer's signed acknowledgement of the consumer's understanding that such purchase or element is not required and of the specific cost to the borrower for each such item, service, commodity, or element.

(d) A copy of the signed document shall be provided to the borrower, and the licensee shall retain the original in the loan file.

(7) Receipt. Each consumer shall be provided with a written receipt for each cash payment made showing the licensee's name on record with the Department, the applicable loan number, the date of the payment, and the dollar amount of the payment.

Cite as Ga. Comp. R. & Regs. R. 80-14-5-.01

AUTHORITY: O.C.G.A. §§ [7-3-11](#), [7-3-12](#), [7-3-15](#), [7-3-51](#).

HISTORY: Original Rule entitled "Loan Contract, Disclosures, and Limitations" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Department 360. RULES OF GEORGIA COMPOSITE MEDICAL BOARD

Chapter 360-2. LICENSE REQUIREMENTS

360-2-.17 Requirements for Telemedicine Licensure

- (1) Must meet the requirements of Rule [360-2-.01](#) and hold a full and unrestricted license to practice medicine in another state.
- (2) Telemedicine License will be limited to the practice of telemedicine and shall not be used to practice medicine physically in this state on a patient that is in this state, unless an emergency.
- (3) Must maintain records in accordance with Rule [360-3-.02\(16\)](#).
- (4) Must adhere to Rule [360-3-.07](#).
- (5) Once licensed applicant must notify the Board of any restrictions placed on his or her license or revocation of his or her license by a licensing board or entity in another state.
- (6) Issuance of this license is at the discretion of the Board.
- (7) The denial of a telemedicine license is not a contested case, but the applicant shall be entitled to an appearance before the Board.

Cite as Ga. Comp. R. & Regs. R. 360-2-.17

AUTHORITY: OCGA [33-24-56.4](#), [43-34-31.1](#).

HISTORY: Original Rule entitled "Requirements for Telemedicine Licensure" adopted. F. Jan. 4, 2021; eff. Jan. 24, 2021.

Department 360. RULES OF GEORGIA COMPOSITE MEDICAL BOARD

Chapter 360-40. INTERSTATE MEDICAL LICENSURE COMPACT (IMLC)

360-40-.01 Definitions

- (1) "Board" means the Georgia Composite Medical Board.
- (2) "Expedited License" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the Compact.
- (3) "IMLC" means the Interstate Medical Licensure Compact.
- (4) "Letter of Qualification" a letter issued after the state of principal license has verified the physician's eligibility for the compact. The letter is valid for 365 days.
- (5) "Member Board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians as directed by the state government.
- (6) "State of Principal License" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the Compact.

Cite as Ga. Comp. R. & Regs. R. 360-40-.01

AUTHORITY: O.C.G.A. §§ [43-34-28](#), [43-34-300](#), [43-34-301](#), [43-34-302](#), [43-34-303](#).

HISTORY: Original Rule entitled "Definitions" adopted. F. Jan. 4, 2021; eff. Jan. 24, 2021.

360-40-.02 Requirements for Licensure through the IMLC with Georgia as your State of Principal license

1. An applicant seeking licensure through the Compact shall file an application for an expedited license through the Interstate Medical Licensure Compact, and must meet the requirements listed in at www.imlcc.org website.
2. A physician shall designate Georgia as the state of principal license for purposes of registration for expedited licensure through the Compact if the physician possesses a full and unrestricted license to practice medicine in this state, and if Georgia is:
 - (a) the state of primary residence for the physician, or
 - (b) the state where at least 25% of the practice of medicine occurs, or
 - (c) the location of the physician's employer, or
 - (d) if no state qualifies under the designated as state of residence for purpose of federal income tax.
 - (e) A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements.

3. Upon receipt of an application for an expedited license, the board shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the Interstate Commission. Application must be completed in 60 days.

4. The board shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, with the exception of federal employees who have suitability determination in accordance with U.S. C.F.R. §731.202.

5. Once the application is approved and the license is issued, the Board will report the licensure to the IMLCC.

6. Within 30 days of license, the applicant must provide the following additional information:

- * Your current CV or resume (also, provide information for any date gaps in the CV or resume)

- * Form B, Reference Form (three references are required)

- * Form D, Affidavit of Applicant

- * Form D2, Affidavit for Medical Board License

- * A copy of a secure and verifiable document from the list following Form

- * Form E, Malpractice Questionnaire, including documentation of any cases

- * National Practitioner Data Bank (NPDB) and Health Integrity and Protection Data Bank (HIPDB) Self-Query and Reports, if you have ever held a license in the US or Canada (not including training licenses). Order it at https://www.npdb-hipdb.hrsa.gov/ext/RulesOfBehaviorSQ.jsp?SUBJECT_TYPE=I.

- * Military discharge documentation, if you have ever been discharged from US military service.

- * Form G, Specific Power of Attorney, if you want to authorize anyone else to make inquiries about your application.

7. Physicians licensed in the state of Georgia with a DEA number **must** register with the Prescription Drug Monitoring Program. You have 30 days from the initial date of your licensure to register.
<https://dph.georgia.gov/pdmp>

8. Fees will be set by the IMLC and are non-refundable.

9. An expedited license obtained through the Compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a non-disciplinary reason, without redesignation of a new state of principal licensure.

Cite as Ga. Comp. R. & Regs. R. 360-40-.02

AUTHORITY: O.C.G.A. §§ [43-34-28](#), [43-34-300](#), [43-34-301](#), [43-34-302](#), [43-34-303](#).

HISTORY: Original Rule entitled "Requirements for Licensure through the IMLC with Georgia as your State of Principal license" adopted. F. Jan. 4, 2021; eff. Jan. 24, 2021.

360-40-.03 Applicants Applying for Licensure to Georgia through IMLC

1. An applicant seeking licensure through the Compact shall file an application for an expedited license through the Interstate Medical Licensure Compact, and must meet the requirements listed in at www.imlcc.org website.

2. Applicants must have a Letter of Qualification (LOQ) to qualify for licensure from their principal home state. The Letter of Qualifications will be valid for 365 days from the date of issue. In addition to the LOQ must provide the following additional information within 30 days of licensure:

- * Your current CV or resume (also, provide information for any date gaps in the CV or resume)
- * Form B, Reference Form (three references are required)
- * Form D, Affidavit of Applicant
- * Form D2, Affidavit for Medical Board License
- * A copy of a secure and verifiable document from the list following Form
- * Form E, Malpractice Questionnaire, including documentation of any cases
- * National Practitioner Data Bank (NPDB) and Health Integrity and Protection Data Bank (HIPDB) Self-Query and Reports, if you have ever held a license in the US or Canada (not including training licenses). Order it at https://www.npdb-hipdb.hrsa.gov/ext/RulesOfBehaviorSQ.jsp?SUBJECT_TYPE=I.
- * Military discharge documentation, if you have ever been discharged from US military service.
- * Form G, Specific Power of Attorney, if you want to authorize anyone else to make inquiries about your application.

3. Physicians licensed in the state of Georgia with a DEA number **must** register with the Prescription Drug Monitoring Program. You have 30 days from the initial date of your licensure to register.
<https://dph.georgia.gov/pdmp>

4. Applicants ineligible for licensure through IMLC will receive a notification from the IMLC.

Cite as Ga. Comp. R. & Regs. R. 360-40-.03

AUTHORITY: O.C.G.A. §§ [43-34-28](#), [43-34-300](#), [43-34-301](#), [43-34-302](#), [43-34-303](#).

HISTORY: Original Rule entitled "Applicants Applying for Licensure to Georgia through IMLC" adopted. F. Jan. 4, 2021; eff. Jan. 24, 2021.

360-40-.04 Renewal and Continued Participation

1. A license renewal notice will be sent 90 days prior to expiration date to direct the physician to renew through the Compact's website. A second license renewal notice will be sent 60 days prior to renewal.

2. A physician seeking to renew an expedited license granted in a member state may complete a renewal process with the IMLC website www.imlcc.org if the physician:

- (a) Maintains a full and unrestricted license in a state of principal license;
- (b) Has not been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;
- (c) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to non-payment of fees related to a license; and
- (d) Has not had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration.

3. Physicians shall comply continuing education requirements for renewal as outlined in Rule Chapter 360-15 "Continuing Education."

Cite as Ga. Comp. R. & Regs. R. 360-40-.04

AUTHORITY: O.C.G.A. §§ [43-34-28](#), [43-34-300](#), [43-34-301](#), [43-34-302](#), [43-34-303](#).

HISTORY: Original Rule entitled "Renewal and Continued Participation" adopted. F. Jan. 4, 2021; eff. Jan. 24, 2021.

360-40-.05 Investigations

1. Licensure and disciplinary records of physicians are deemed investigative records.
2. In addition to the authority granted to a member board by its respective Medical Practice Act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.
3. A subpoena issued by a member state shall be enforceable in other member states.
4. Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.
5. Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.
6. An expedited license obtained through the Compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a non-disciplinary reason, without redesignation of a new state of principal licensure.

Cite as Ga. Comp. R. & Regs. R. 360-40-.05

AUTHORITY: O.C.G.A. §§ [43-34-28](#), [43-34-300](#), [43-34-301](#), [43-34-302](#), [43-34-303](#).

HISTORY: Original Rule entitled "Investigations" adopted. F. Jan. 4, 2021; eff. Jan. 24, 2021.

360-40-.06 Disciplinary Actions

1. Any disciplinary action taken by any member board against a physician licensed through the Compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the Medical Practice Act or regulations in that state.
2. If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the Medical Practice Act of that state.
3. If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:
 - (a) Impose the same or lesser sanction(s) against the physician so long as such sanctions are consistent with the Medical Practice Act of that state; or

(b) Pursue separate disciplinary action against the physician under its respective Medical Practice Act, regardless of the action taken in other member states.

(c) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any license(s) issued to the physician by any other member board(s) shall be suspended, automatically and immediately without further action necessary by the other member board(s), for ninety (90) days upon entry of the order by the disciplining board, to permit the member board(s) to investigate the basis for the action under the Medical Practice Act of that state.

(d) A member board may terminate the automatic suspension of the license it issued prior to the completion of the ninety (90) day suspension period in a manner consistent with the Medical Practice Act of that state.

Cite as Ga. Comp. R. & Regs. R. 360-40-.06

AUTHORITY: O.C.G.A. §§ [43-34-28](#), [43-34-300](#), [43-34-301](#), [43-34-302](#), [43-34-303](#).

HISTORY: Original Rule entitled "Disciplinary Actions" adopted. F. Jan. 4, 2021; eff. Jan. 24, 2021.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-1. ADMINISTRATION

Subject 375-1-1. ORGANIZATION

375-1-1-.04 Electronic Signatures

(1) Definitions

- (a) "Electronic Signature" means an electronic symbol or process attached to or associated with an electronic record and executed or adopted by a person with the intent to sign a record.
- (b) "Electronic Record" means a record created, generated, sent, communicated, received, or stored by electronic means.
- (c) "Electronic Transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records.
- (d) "Approved Electronic Signature Method" means a method that has been approved by the Commissioner, in accordance with this rule and all applicable state and federal laws, and which specifies the form of the electronic signature, and the significance of the use of the electronic signature.

(2) Use of Electronic Signature

- (a) Where a departmental policy requires that a record have a signature of a customer or responsible person, the requirement is met when the electronic record has associated with it, an electronic signature using an approved electronic signature method.
- (b) When a signature is required, the signature requirement is met when the electronic record has an electronic signature associated with it using an approved electronic signature method, in compliance with all state and federal laws.

(3) Acceptable Forms of Electronic Signature Methods

The following are approved electronic signature methods:

- (a) A typed name (i.e., typed into a signature block on a website form)
- (b) A digitized image of a handwritten signature that is attached to an electronic record
- (c) A shared secret (i.e., password or PIN) used by a person to sign the electronic record
- (d) Clicking or checking an on-screen button (i.e., clicking or checking an "I Agree" or "I Consent" button)
- (e) Other reasonable and comparable methods may also be appropriate so long as it is clear to the signer that he/she is signing the record.

(4) Identification and Authentication of Signer

- (a) The electronic signature must be associated with a person. The Department may require a physical or "wet" signature be on file to ensure the validity of any electronically signed record.

(b) The specific data object that constitutes the electronic signature or the overall method of signing must be able to generate evidence of the person the electronic signature belongs to, as well as generate evidence that the identified person is actually associated with the electronic record.

Cite as Ga. Comp. R. & Regs. R. 375-1-1-.04

AUTHORITY: O.C.G.A. §§ [10-12-7](#), [40-5-4](#), [40-5-101](#), [40-16-2](#), [40-16-3](#), [40-16-5](#).

HISTORY: Original Rule entitled "Final Agency Decisions in Administrative Hearings" adopted. F. Sept. 1, 2004; eff. Sept. 21, 2004.

Repealed: F. Aug. 12, 2020; eff. Sep. 1, 2020.

Adopted: New rule entitled "Electronic Signatures." F. Jan. 14, 2021; eff. Feb. 3, 2021.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-5. DRIVER TRAINING AND DRIVER IMPROVEMENT

Subject 375-5-1. DRIVER IMPROVEMENT

375-5-1.10 Driver Improvement Clinic Office Requirements

(1) The clinic shall permit authorized representatives of the Department to make periodic, scheduled or unscheduled inspections of all clinic facilities. During each inspection each owner, partner, associate, corporate director, office manager or employee of the clinic shall cooperate with the Departments representative and upon demand shall exhibit all records, instructional aides or such other materials as may be called for to be inspected.

(2) The telephone must be used exclusively for the operation of the clinic. The telephone may be used in conjunction with an Alcohol Program licensed by the Georgia Department of Behavioral Health and Developmental Disabilities, or with a driver training school or ignition interlock provider licensed by the Department. The clinic must notify the Department in writing within ten (10) days of any telephone number changes for the clinic.

(3) Sufficient indoor space must be provided for the purpose of instruction, to include individual desks or tables with chairs to accommodate students comfortably. Classes of instruction are limited to a maximum number of forty (40) students per class unless the Department determines that the space is inadequate for that number of students. In those situations, the maximum number will be calculated on twenty square feet per student with a minimum number of fifteen students per class. The minimum square feet of an indoor classroom must be at least 300 square feet of useable classroom space. Programs licensed prior to the enactment of the 300 square foot minimum may continue to utilize existing classrooms that satisfied the prior requirement of 250 square feet. Such programs may not add new classrooms that are less than 300 square feet in size. The maximum number of students per class determined by the Department does not supersede the occupancy load or maximum for the building determined by the local governing entity (i.e. county or city fire marshal, inspector, or agent). A copy of the Certificate of Occupancy must be submitted during the certification application process.

(4) A clinic shall maintain business hours of at least fifteen (15) hours per week, half of which must fall within the Department's normal business hours. An employee of the clinic must be available during this time to furnish information of operation, verify attendance to a class, or to produce the necessary records or documents whenever requested by a member of the Department. The clinic may close for a lunch hour at a set time, upon notice to the Department of the scheduled lunch hour. Each clinic is responsible for notifying the Department of times during which the business office of the clinic will be closed for lunch or vacation and of the regularly scheduled hours of operation of the business office.

(5) Each clinic must have a principal office. The principal office cannot be located in a private residence unless a separate public outside entrance is provided.

(6) Any school, office, or classroom facility utilized for or approved for the purposes of a Driver Improvement Clinic shall comply with the requirements set forth by the Americans with Disabilities Act of 1990, before a permit is issued. The owner shall certify to the Department that the office and/or classroom complies with the Act, its implementing regulations, and Georgia laws governing access for the handicapped.

(7) Any school, office, or classroom facility utilized for or approved for the purpose of a Driver Improvement Clinic shall be clean and safe from health hazards such as rodents, pest infestation, and mold.

(8) Any driver improvement clinic which is to be closed on a weekday other than for federal or state holidays must give the Department written notice of the closure two weeks in advance. Confirmation of the receipt of the notice will be issued by the Department. The clinic is not relieved of its obligations to make records and documents

available for inspection unless it has received confirmation of receipt of the notice of proposed closure from the Department.

Cite as Ga. Comp. R. & Regs. R. 375-5-1-.10

AUTHORITY: O.C.G.A. §§ [40-5-80](#), [40-5-83](#).

HISTORY: Original Rule entitled "Office Requirements" adopted. F. June 10, 2002; eff. June 30, 2002.

Amended: F. Feb. 20, 2003; eff. Mar. 12, 2003.

Amended: F. Mar. 25, 2014; eff. Apr. 14, 2014.

Amended: New title "Driver Improvement Clinic Office Requirements." F. Jan. 14, 2021; eff. Feb. 3, 2021.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-5. DRIVER TRAINING AND DRIVER IMPROVEMENT

Subject 375-5-2. DRIVER TRAINING SCHOOLS

375-5-2-.11 Driver Training School and/or Limited Driver Training School Office Requirements

(1) A residence may not be used to provide classroom instruction or behind the wheel instruction, except when such residence meets all the qualifications of a school and provided that such operation is not in conflict with local zoning laws regulating commercial businesses and the residence has a separate public outside entrance for the driver training school, limited driver training school and a separate restroom facility.

(2) A driver training school and/or limited driver training school shall maintain an office in the following manner:

(a) The license of the school must be conspicuously displayed in a public location.

(b) The school shall permit authorized representatives of the Department of Driver Services to make periodic scheduled and unscheduled inspections of all school facilities. During such inspection, each owner, partner, associate, corporate director, officer, manager, or employee of the school shall cooperate with the Department's representatives and upon demand, shall exhibit all records or other documents that are required to be maintained by such school under this Chapter.

(c) The telephone must be used exclusively for the operation of the school.

(d) Sufficient indoor space must be provided for the purpose of instruction, to include individual desks or table with chairs to accommodate students comfortably. Classes of instruction are limited to a maximum number of forty (40) students per class unless the Department determines that the space is inadequate for that number of students. In those situations, the maximum number will be calculated on twenty square feet per student and instructor. The minimum square feet of an indoor classroom must be at least 300 square feet of useable classroom space. Programs licensed prior to the enactment of the 300 square foot minimum may continue to utilize existing classrooms that satisfied the prior requirement of 250 square feet. Such programs may not add new classrooms that are less than 300 square feet in size. The maximum number of students per class determined by the Department does not supersede the occupancy load or maximum for the building determined by the local governing entity (i.e. county or city fire marshal, inspector, or agent). A copy of the Certificate of Occupancy must be submitted during the certification application process.

(e) Each school shall be inspected by the respective municipal or county government to ensure that the facilities of such school are in compliance with fire, sanitation, and building requirements in force and effect at the time of the commencement of operations of such school at such location or with the requirements imposed thereafter in conjunction with modifications or improvements previously made to such facilities. Copies of such inspection reports shall be made available upon request to the Department. In addition, the Department shall inspect the designated office space prior to approval of any application submitted to the Department.

(f) An employee of the school must be available to furnish information of operation or to produce necessary records or documents whenever requested by a member of the Department.

(g) The business office of the school cannot be operated entirely through a telephone answering service or telephone answering machine.

(h) A driver training school shall maintain business hours of at least fifteen (15) hours per week, half of which must fall within the Department's normal business hours. An employee of the driving training school and/or limited driver training school must be available during this time to furnish information of operation, verify attendance to a class, or to produce the necessary records or documents whenever requested by a member of the Department. The school may close for a lunch hour at a set time upon notice to the Department of the scheduled lunch hour. The school shall be responsible for notifying the Department of those times during which the business office will be closed for lunch or vacation and of the regularly scheduled hours of operation of the business office.

(i) Any school or classroom facility utilized for or approved for the purposes of a driver training school and/or limited driver training school shall comply with the requirements set forth by the Americans with Disabilities Act of 1990, before a permit or license is issued. The owner shall certify to the Department that the facility complies with the Act and its implementing regulations.

(j) Any school, office, or classroom facility utilized for or approved for the purpose of a driver training school and/or limited driver training school shall be clean and safe from health hazards such as rodents, pest infestation, and mold.

(k) A virtual driver training school shall furnish to the Department, upon request, reports of all students attending the virtual program. Reports must be in the prescribed format of the Department.

(l) A virtual driver training school must provide a "student help desk" for technical support.

Cite as Ga. Comp. R. & Regs. R. 375-5-2-.11

AUTHORITY: O.C.G.A. §§ [43-13-4](#), [43-13-8](#).

HISTORY: Original Rule entitled "Office Requirements" adopted. F. Oct. 25, 2004; eff. Nov. 14, 2004.

Amended: F. Sept. 11, 2006; eff. Oct. 1, 2006.

Amended: F. Aug. 24, 2010; eff. Sept. 13, 2010.

Amended: F. Mar. 25, 2014; eff. Apr. 14, 2014.

Amended: New title "Driver Training School and/or Limited Driver Training School Office Requirements." F. Jan. 14, 2021; eff. Feb. 3, 2021.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-5. DRIVER TRAINING AND DRIVER IMPROVEMENT

Subject 375-5-3. COMMERCIAL DRIVER TRAINING SCHOOLS

375-5-3-.11 Commercial Driver Training School Office Requirements

- (1) A residence may not be used as the place of business for a commercial driver training school.
- (2) A commercial driver training school shall maintain an office in the following manner:
 - (a) The license of the school must be conspicuously displayed.
 - (b) The school shall permit authorized representatives of the Department to make periodic scheduled and unscheduled inspections of all school facilities. During such inspection, each owner, partner, associate, corporate director, officer, manager, or employee of the school shall cooperate with the Department's representatives and upon demand, shall exhibit all records or other documents required to be maintained by such school under this Chapter.
 - (c) The telephone must be used exclusively for the operation of the school.
 - (d) An indoor classroom must be enclosed in such a manner that interference by the general public will be minimized. Sufficient indoor space must be provided for the purpose of instruction, to include individual desks or table with chairs to accommodate students comfortably. Classes of instruction are limited to a maximum number of forty students per class unless the Department determines that the space is inadequate for that number of students. In those situations, the maximum number will be calculated on twenty square feet per student with a minimum number of fifteen students per class. The maximum number of students per class determined by the Department does not supersede the occupancy load or maximum for the building determined by the local governing entity (i.e. county or city fire marshal, inspector, or agent). A copy of the Certificate of Occupancy must be submitted during the certification application process.
 - (e) Each school shall be inspected by the respective municipal or county government to ensure that the facilities of such school are in compliance with fire, sanitation, and building requirements in force and effect at the time of the commencement of operations of such school at such location or with the requirements imposed thereafter in conjunction with modifications or improvements previously made to such facilities. Copies of such inspection reports shall be made available upon request to the Department. In addition, the Department shall inspect the designated office space prior to approval of any application submitted to the Department.
 - (f) An employee of the school must be available to furnish information of operation or to produce necessary records or documents whenever requested by a member of the Department.
 - (g) The business office of the school cannot be operated entirely through a telephone answering service or telephone answering machine.
 - (h) The school may use the services of an answering service to answer the telephone only when the office is unmanned. The owner or operator of a school will be permitted to list their residence telephone number in any advertisement or on business cards provided such listing specifically states that such number may be called after a designated hour.

EXAMPLE: If the residence telephone number of the owner or operator is 224-4444, the advertisement must read, 'Call 244-4444 after 6:00 p.m.'

(i) Any commercial driver training school may use a telephone number answering service in connection with the school; however, such service must be secondary to the operation of the school and shall be used only when there is no one in the school office to answer the telephone.

(j) An 800 number or other telephone number may be answered at the principal office provided it is a toll-free call from the county where the classroom is located.

(k) Any school or classroom facility utilized for or approved for the purposes of a commercial driver training school shall be clean and safe from health hazards such as rodents, pest infestation, and mold, and must comply with the requirements set forth by the Americans with Disabilities Act of 1990, before a permit is issued. The owner shall certify to the Department that the facility complies with the Act and its implementing regulations.

Cite as Ga. Comp. R. & Regs. R. 375-5-3-.11

AUTHORITY: O.C.G.A. § [43-13-8](#).

HISTORY: Original Rule entitled "Office Requirements" adopted. F. Sept. 1, 2004; eff. Sept. 21, 2004.

Amended: New title "Commercial Driver Training School Office Requirements." F. Jan. 14, 2021; eff. Feb. 3, 2021.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-5. DRIVER TRAINING AND DRIVER IMPROVEMENT

Subject 375-5-6. DUI ALCOHOL OR DRUG USE RISK REDUCTION PROGRAM

375-5-6-.18 DUI Alcohol or Drug Use Risk Reduction Program Location and Facilities

- (1) Programs shall only operate in locations that have been certified by the Department.
- (2) Programs shall only hold courses in classrooms that have been certified by the Department.
- (3) No program applying for certification shall share the same entrance with, or be immediately adjacent to, a facility where alcoholic beverages are sold or distributed.
- (4) No program office or classroom shall be located within a retail business establishment or a private residence.
- (5) Except as provided in subsection (17) below, program offices and classrooms shall be located on the same premises.
- (6) All program facilities shall include the following:
 - (a) Clean working restrooms;
 - (b) Blinds, shades or curtains for windows or glass doors for student privacy;
 - (c) Adequate lighting, heating and air conditioning;
- (7) Programs shall maintain the following equipment in working order:
 - (a) A television or projector and projection screen that can be suitably viewed by all course participants;
 - (b) Media equipment and visual displays for presenting required portions of the curriculum that meets Department specifications;
 - (c) Secure file storage; and
 - (d) Other equipment as designated by the Department.
- (8) Program offices cannot be open during class time, unless program office activities can be conducted without disrupting a class.
- (9) The full program name and business hours shall be displayed and clearly visible from the outside of the premises.
- (10) Program classrooms must have a minimum of 300 square feet of useable space. Program classrooms shall be certified to offer services at twenty (20) square feet per person, up to a maximum of forty (40) students. Programs licensed prior to the enactment of the 300 square foot minimum may continue to utilize existing classrooms that satisfied the prior requirement of 250 square feet. Such programs may not add new classrooms that are less than 300 square feet in size. The maximum number of students per class determined by the Department does not supersede

the occupancy load or maximum for the building determined by the local governing entity (i.e. county or city fire marshal, inspector, or agent). A copy of the Certificate of Occupancy must be submitted during the certification application process.

(11) The program's certification shall be displayed in a conspicuous location on the premises of the program.

(12) Programs that are in compliance with the rules and regulations of the Department may apply to operate satellite locations.

(13) No satellite program shall operate without first being certified by the Department.

(14) Applications for satellite programs shall be submitted on forms prepared by the Department, following the procedure prescribed by the Department; shall include all information and fees; and shall be truthful, accurate, and complete.

(15) Satellite programs shall be located within fifty (50) miles of the program that is operating the satellite program.

(16) Multiple satellite programs may operate in the same county.

(17) Satellite locations shall meet all location and facility requirements as outlined in these rules and regulations, except as follows:

(a) Student or offender records may be maintained at the program location;

(b) Programs may use the telephone number of the program location; and,

(c) Programs may perform administrative duties at program location.

(18) Any school or classroom facility utilized for or approved for the purposes of a DUI Alcohol or Drug Use Risk Reduction program shall comply with the requirements set forth by the Americans with Disabilities Act of 1990, before a permit is issued. The owner shall certify to the Department that the facility complies with the Act and its implementing regulations.

(19) Any school, office, or classroom facility utilized for or approved for the purpose of a DUI Alcohol or Drug Use Risk Reduction program shall be clean and safe from health hazards such as rodents, pest infestation, and mold.

(20) (a) The Department may develop policies and procedures for the delivery of remote classroom instruction for certified DUI Alcohol or Drug Use Risk Reduction programs in the event of a public health state of emergency, natural disaster, or man-made disaster.

(b) A certified DUI Alcohol or Drug Use Risk Reduction program may utilize remote services for classroom instruction and the administration of assessments. Such instruction, training, and assessments may be done via web services, such as, but not limited to, Skype, Zoom, or Webex. Instruction must be synchronous instruction allowing for real-time instruction and interaction in a specific virtual place, through a specific online medium, at a specific time.

(c) Schools utilizing such methods must notify and obtain prior approval from the Department and keep rosters and required documents of students enrolled in these programs pursuant to existing rules and regulations of the Department. Such programs shall continue to be subject to all monitoring, training, and auditing pursuant to existing rules and regulations of the Department.

Cite as Ga. Comp. R. & Regs. R. 375-5-6-.18

AUTHORITY: O.C.G.A. §§ [40-5-82](#), [40-5-83](#).

HISTORY: Original Rule entitled "Program Location and Facilities" adopted. F. July 24, 2009; eff. Aug. 13, 2009.

Amended: F. Mar. 25, 2014; eff. Apr. 14, 2014.

Amended: New title "DUI Alcohol or Drug Use Risk Reduction Program Location and Facilities." F. Aug. 12, 2020; eff. Sep. 1, 2020.

Amended: F. Jan. 14, 2021; eff. Feb. 3, 2021.

Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-1. ADMINISTRATIVE UNIT

Subject 560-1-1. ORGANIZATION

560-1-1.14 [Effective 2/10/2021] Electronic Signature and Remote Notary

(1) Definitions

(a) "Electronic Signature" means a typed name; a scanned or digitized image of a handwritten signature; a code, password, or PIN; a handwritten signature input on an electronic signature pad; a handwritten signature, mark, or command input on a display screen by means of a stylus or device; or other such electronic indication of intent to sign that also meets the following requirements:

1. The electronic signature is executed or adopted in a manner that shows the signer's intent to sign;
2. The electronic signature is attached to or associated with the electronic document that is being signed;
3. The electronic signature identifies and authenticates an individual as the signer and source of the electronic document;
4. The electronic signature is linked to the document and cannot be excised, copied, or otherwise transferred to falsify an electronic document; and
5. The electronic signature is tamper-proof to ensure that the signature applied to or associated with one document is not applied to or associated with another document.

(b) "Remote Notarization" means a notarization that has been performed remotely and also meets the following requirements:

1. The notary public uses real-time audio-video communication technology or any similar real-time means of electronic video conferencing that allows the parties to communicate with each other simultaneously by sight and sound in order to notarize signatures.
2. The notary public is an attorney licensed to practice law in the State of Georgia or is operating under the supervision of an attorney licensed to practice law in the State of Georgia. "Supervision" means that the notary public is an employee, independent contractor, agent, or other representative of an attorney or an attorney observes the execution of documents either in-person or via the real-time audio-video communication technology.
3. The signer requiring the notary presents satisfactory evidence of identity as required in O.C.G.A. § [45-17-8](#) while connected to the real-time audio-video communication technology.
4. The notary public is physically located in the State of Georgia.
5. The signer transmits a copy of the signed document to the notary public on the same date it was executed for execution by the notary.

(2) Acceptance of Electronic Signatures

(a) In addition to the documents authorized for electronic signature in Ga. Comp. R. & Reg. § 560-3-2-.27, taxpayers and authorized third party representatives may submit electronic signatures on certain forms and

documents authorized by the Commissioner through Department regulations, publications, policy bulletins, or other documents accepted as Department guidance.

(3) Acceptance of Remote Notarizations

(a) The Department will accept remote notarizations on documents that require a notary and are authorized by the Commissioner through Department regulations, publications, policy bulletins, or other documents accepted as Department guidance.

Cite as Ga. Comp. R. & Regs. R. 560-1-1-.14

AUTHORITY: O.C.G.A. §§ [48-2-12](#), [10-12-1](#) *et seq.*

HISTORY: Original Rule was filed on June 30, 1965.

Repealed: F. Jan. 14, 2016; eff. Feb. 3, 2016.

Adopted: New Rule entitled "Electronic Signature and Remote Notary." F. Jan. 21, 2021; eff. Feb. 10, 2021.

Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-3. FISCAL OPERATIONS DIVISION

Subject 560-3-2. SUBSTANTIVE REGULATIONS

560-3-2-.27 [Effective 2/10/2021] Signature Requirements for Tax Returns

(1) **Purpose.** The purpose of this regulation is to define terms and explain the requirements for signatures under Title 48.

(2) **Definitions.**

(a) "Department" means the Department of Revenue.

(b) "Electronic Signature" shall have the same meaning as defined in Ga. Comp. R. & Reg. § 560-1-1-.14(1)(a).

(c) "Electronic" means, but is not limited to, electronic data interchange; or use of the Internet, telephone, or other technology specified by the Department and the filing of a return by computer technology.

(d) "Electronic Returns Originator (ERO)" and "Electronic Returns Transmitter (ERT)" means an entity or individual that is in the practice of and approved by the Internal Revenue Service to complete and electronically transmit Federal and Georgia income tax returns to the Department.

(e) "GTC" means the Georgia Tax Center.

(f) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(g) "Person" means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public.

(h) "Return" shall mean any tax return, registration application, form, signature form, or information return required to be filed with the Department.

(i) "Return Preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return imposed under Title 48, or any claim for refund. The preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund. A person shall not be considered a return preparer merely because the person does any of the following:

1. Furnishes typing, reproducing, or other mechanical assistance;
2. Prepares a return or claim for refund of the employer, or an officer or employee of the employer, by whom the person is regularly and continuously employed;
3. Prepares as a fiduciary a return or claim for refund for any person; or
4. Prepares a claim for refund for a taxpayer in response to a notice of proposed assessment issued to the taxpayer.

(j) "Signature Form" means Form GA-8453, Form GA-8453C, Form GA-8453S, or Form GA-8453P.

(k) "Tax" means tax, interest, penalty, and fees.

(l) "Taxpayer" means any person required by law to file a return or to pay taxes.

(m) "Third Party" means any person who is authorized to file returns on behalf of a taxpayer, make payments on behalf of a taxpayer, or is authorized by a taxpayer to access account information.

(3) Signature Provisions for the Valid Filing of all Paper Returns, Electronic Returns, and Signature Forms

(a) Except as provided in this regulation, a taxpayer must sign the return. By signing a return, the taxpayer declares under penalties of perjury that to the best of the taxpayer's knowledge and belief the return and accompanying schedules and statements are true, correct, and complete. Such signature will be presumed to be the valid signature of the person responsible for the filing of the return. Should a taxpayer not sign a return it will be considered not to have been filed. Except as otherwise provided by Title 48, returns must be signed as follows:

1. Individual income tax returns must be signed by the individual.

2. Individual joint income tax returns must be signed by both spouses.

3. For a deceased individual, the surviving spouse, administrator, or executor may sign any return on behalf of the deceased individual.

4. All returns for sole proprietorships must be signed by the sole proprietor.

5. All returns for corporations must be signed by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or any other officer duly authorized to so act. The signature shall be prima facie evidence for all purposes that such person is authorized to sign the return on behalf of the corporation.

6. All returns for partnerships must be signed by any one of the authorized partners. The signature shall be prima facie evidence for all purposes that such person is authorized to sign the return on behalf of the partnership.

7. All returns for limited liability companies shall be signed by any one of the authorized members. The signature shall be prima facie evidence for all purposes that such person is authorized to sign the return on behalf of the limited liability company.

8. All returns for trusts and estates shall be signed by the fiduciary. The signature shall be prima facie evidence for all purposes that such person is the fiduciary and is authorized to sign the return on behalf of the trust or estate.

(b) The taxpayer must also date the return in the space provided when signing a paper return.

(c) When a return has been completed by a return preparer or a return is filed by a third party, the return preparer or third party must sign the return. By signing the return, the return preparer or third party declares under penalties of perjury that to the best of the return preparer's or third party's knowledge and belief the return and accompanying schedules and statements are true, correct, and complete. Such declaration of the return preparer or third party is based on all information of which the return preparer or third party has knowledge. With respect to paper income tax withholding and related paper information returns, and paper sales and use tax returns, the return preparer or third party may sign such returns on behalf of a taxpayer. By this signing, such return preparer or third party certifies that the taxpayer has granted them the authority to perform this action on their behalf. With respect to paper income tax returns, a return preparer may sign by means of a rubber stamp, mechanical device, or computer software program. Such alternative methods of signing must include either a facsimile of the individual preparer's signature or the individual preparer's printed name. Such return preparer is personally responsible for affixing their signature to the return.

(d) When a paper return has been completed by a return preparer or a paper return is filed by a third party, the return preparer or third party must also date the return in the space provided.

(e) An electronic signature shall have the same legal effect as a signature on a paper tax return. An electronic signature shall be attributable to a person if the record or signature was the act of the person. The act of the person

may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic signature was attributable.

(f) A return signature shall be prima facie evidence for all purposes that the return was actually signed and that the signature is valid.

(g) A signature by use of a mark can serve as a signature on a paper return only when two individuals attach a signed statement which witnesses such signature. Such witnesses shall clearly print their names next to their signatures for purposes of clarification.

(h) A faxed signature shall have the same legal effect as an original signature.

(4) Electronically Filed Income Tax Returns.

(a) The taxpayer's signature on the signature form must be the signature of the taxpayer whose return is filed electronically and such form must be completed and signed prior to the filing of the taxpayer's electronic return. For purposes of this subparagraph, the only electronic signature that shall be considered a signature is where the taxpayer actually signed the document electronically (using a mouse, touch pad, or other electronic input method), the person's actual signature is captured, and the signed form can be reproduced either electronically or by paper. A signature created by any other electronic means is not considered a signature for purposes of this subparagraph.

(b) The return preparer's signature on the signature form must be the signature of the return preparer who prepared the electronically filed return and such form must be completed and signed prior to the filing of the taxpayer's electronic return. A return preparer may sign by means of a rubber stamp, mechanical device, or computer software program. Such alternative methods of signing must include either a facsimile of the individual preparer's signature or the individual preparer's printed name. Such return preparer is personally responsible for affixing their signature to the signature form.

(c) The ERO or ERT must sign the signature form. An ERO or ERT may sign by means of a rubber stamp, mechanical device, or computer software program. Such alternative methods of signing must include either a facsimile of the individual preparer's signature or the individual preparer's printed name. Such ERO or ERT is personally responsible for affixing their signature to the signature form.

(d) The ERO or ERT shall declare that they have reviewed the taxpayer's return and that the entries on the signature form are complete and correct to the best of their knowledge.

(e) The ERO or ERT is required to keep the following items for any Georgia income tax return filed electronically for a period of three years from the date the return is filed:

1. A signed and dated signature form; and
2. Any form, statement, or attachment that cannot be transmitted electronically.

(f) The ERO or ERT must maintain the signed and dated signature forms, in order for them to be immediately available to the Department at any time upon request during such retention period.

(g) In the event the ERO or ERT ceases operations or participation in the program, or has its approval to participate in the program revoked, the ERO or ERT must submit a letter of explanation and deliver to the Department by certified mail or other documented delivery all signature forms and all forms, statements, and attachments that could not be transmitted electronically within three (3) business days of ceasing operations or participation in the program.

(5) Tax Returns Filed Using the Georgia Tax Center (GTC).

(a) A taxpayer must register with the Department, using Form CRF-002 or its electronic equivalent on GTC, prior to creating a user profile.

(b) A third party must register with the Department, using Form CRF-002 or its electronic equivalent on GTC, prior to creating a user profile. The third party must also submit Form CRF-BULK or its electronic equivalent on GTC.

(c) When a taxpayer or third party electronically submits a registration, such act shall constitute an electronic signature of the registration by the taxpayer and/or the third party.

(d) After the third party has registered as provided in subparagraph (5)(b), the taxpayer, if they choose, will provide selective information to the third party, for purposes of allowing the third party to access the taxpayer's account. The provision of such information shall authorize the third party to access the taxpayer's confidential information. The third party shall then access their third party account by using the third party's username and password. They will then be able to access the taxpayer's account through their third party account. The third party shall not access the taxpayer's account directly by using the taxpayer's username and password.

(e) When a return is filed electronically by a taxpayer, such act shall constitute an electronic signature of the return by the taxpayer.

(f) When a return is filed electronically by an authorized third party on behalf of a taxpayer, such act shall constitute an electronic signature of the return by the taxpayer, the return preparer, and such third party. This electronic filing by such third party certifies that the taxpayer has granted them authority to perform this action on their behalf.

(g) An electronic return will not be considered filed until all components of an electronic signature are transmitted to the Department and the Department issues a confirmation number to acknowledge receipt of the transmission. This confirmation number will be an acknowledgement of the receipt of the return only but will not acknowledge that the return is correct as filed.

(h) The taxpayer has the authority to revoke the authority of a third party at any time by removing them as an authorized user of the taxpayer's account on GTC. Once authority has been revoked, the third party will no longer be allowed to access the account on behalf of such taxpayer.

Cite as Ga. Comp. R. & Regs. R. 560-3-2-.27

AUTHORITY: O.C.G.A. §§ [48-2-12](#), [48-2-32](#), [48-6-95](#), [48-7-25](#), [48-7-50](#), [48-7-51](#), [48-7-52](#), [48-7-53](#), [48-7-101](#), [48-7-103](#), [48-7-106](#), [48-7-107](#), [48-7-114](#), [48-7-119](#), [48-7-128](#), [48-7-129](#), [48-8-49](#), [48-8-59](#), [48-9-4](#), [48-9-5](#), [48-9-6](#), [48-9-8](#), [48-9-9](#), [48-9-33](#), [48-9-34](#), [48-11-4](#), [48-11-5](#), [48-11-10](#), [48-11-14](#), [48-13-50.3](#), [48-13-77](#), [48-13-131](#).

HISTORY: Original Rule entitled "Signature Requirements for Tax Returns" adopted as ER. 560-3-2-0.41-.27. F. and eff. May 22, 2009, the date of adoption.

Amended: Permanent Rule of same title adopted. F. July 29, 2009; eff. Aug. 18, 2009.

Amended: F. Nov. 3, 2010; eff. Nov. 23, 2010.

Amended: F. Sep. 13, 2013; eff. Oct. 3, 2013.

Amended: F. Nov. 17, 2015; eff. Dec. 7, 2015.

Amended: F. Jan. 21, 2021; eff. Feb. 10, 2021.

Department 750. RULES OF STATE BOARD OF EXAMINERS FOR CERTIFICATION OF WATER AND WASTEWATER TREATMENT PLANT OPERATORS AND LABORATORY ANALYSTS

Chapter 750-3. CLASSIFICATIONS AND REQUIREMENTS

750-3-.01 Mandatory Certification

(1) Public Water Supply System Operators and Biological Wastewater Treatment System Operators must be certified; however, each industrial wastewater treatment or pretreatment facility shall be required to have only one operator in responsible charge obtain such a certification; and

(2) Water Distribution System and Wastewater Collection System Operators must be certified; however, each industrial wastewater collection system or distribution system shall be required to have only one operator in responsible charge obtain such a certification; and

(3) Water and Wastewater Laboratory Analysts must be certified; however, any industrial wastewater or pretreatment plant shall be required to have only one responsible analyst obtain such certification, and other analysts in that facility shall be supervised by that person.

Cite as Ga. Comp. R. & Regs. R. 750-3-.01

AUTHORITY: O.C.G.A. §§ [43-1-4](#), [43-1-7](#), [43-1-9](#), [43-1-19](#), [43-1-24](#), [43-1-25](#), [43-51-5](#), [43-51-6](#), [43-51-6.1](#), [43-51-7](#), [43-51-8](#), [43-51-9](#), [43-51-10](#).

HISTORY: Original Rule entitled "Certification Criteria" was filed on October 8, 1971; effective October 28, 1971.

Amended: Filed August 12, 1974; effective September 1, 1974.

Amended: Rule repealed and a new Rule entitled "Operator and Laboratory Analyst Classification" adopted. Filed November 19, 1980; effective December 9, 1980.

Amended: Filed March 20, 1984; effective April 9, 1984.

Amended: Rule repealed and a new Rule of same title adopted. Filed July 8, 1988; effective July 28, 1988.

Repealed: New Rule entitled "Mandatory Certification" adopted. F. Dec. 17, 1991; eff. Jan. 6, 1992.

Repealed: New Rule of same title adopted. F. Feb. 5, 1993; eff. Feb. 25, 1993.

Amended: F. Sept. 20, 1993; eff. Oct. 10, 1993.

Amended: F. Sept. 11, 1995; eff. Oct. 1, 1995.

Amended: f. Dec. 2, 1997; eff. Dec. 22, 1997.

Amended: F. Jan. 14, 2021; eff. Feb. 3, 2021.

750-3-.02 Operator in Responsible Charge

The operator who is in responsible charge of a public water supply system or wastewater treatment system shall hold a certificate of a class equal to or higher than the class of the plant or system that the operator is currently operating.

Cite as Ga. Comp. R. & Regs. R. 750-3-.02

AUTHORITY: O.C.G.A. §§ [43-1-4](#), [43-1-7](#), [43-1-9](#), [43-1-19](#), [43-1-24](#), [43-1-25](#), [43-51-5](#), [43-51-6](#), [43-51-6.1](#), [43-51-7](#), [43-51-8](#), [43-51-9](#), [43-51-10](#).

HISTORY: Original Rule entitled "Requirements for Operator and Laboratory Analyst Certification" was filed on November 19, 1980; effective December 9, 1980.

Amended: Rule repealed and a new Rule of same title adopted. Filed September 19, 1993; effective October 9, 1993.

Amended: Filed March 4, 1987; effective March 24, 1987.

Amended: Rule repealed and a new Rule of same title adopted. Filed July 8, 1988; effective July 28, 1988.

Amended: F. May 8, 1990; eff. May 28, 1990.

Repealed: New Rule entitled "Operator in Responsible Charge" adopted. F. Dec. 17, 1991; eff. Jan. 6, 1992.

Repealed: New Rule of same title adopted. F. Feb. 5, 1993; eff. Feb. 25, 1993.

Amended: ER 750-3-0.2 -.02 was f. Jun. 7, 1994; eff. Jul. 1, 1994, as specified by the Agency, to remain in effect for 120 days or until the effective date of a Permanent Rule covering the same subject matter superseding said ER, as specified by the Agency.

Amended: Permanent Rule adopted. F. Jul. 27, 1994; eff. Aug. 16, 1994.

Amended: F. Jan. 14, 2021; eff. Feb. 3, 2021.

750-3-.04 Requirements

For certification in a particular class or category, an applicant must meet the following:

(a) **Education.** Applicants must have earned a minimum of a high school diploma or GED certificate and must provide proof of education when submitting the application for certification to the Board.

(b) **Course(s).** Applicants must have completed Board-approved course(s) prior to taking the examination and must provide proof of such when submitting their application for certification to the Board, unless otherwise noted in this rule. The Board may evaluate, on a case-by-case basis, post-secondary education to determine satisfaction of the course requirements. The course requirements are as follows:

1. Public Water Supply System Operator

Class IV - 6-hour basic water operator course

Class III - 40-hour basic water operator course

Class II - 48 hours of advanced water operator courses

Class I - No additional courses

2. Biological Wastewater Treatment System Operator

Class IV - 6-hour basic waste stabilization pond operator course

Class III - 40-hour basic wastewater operator course

Class II - 48 hours of advanced wastewater operator courses

Class I - No additional courses

3. Industrial Wastewater Treatment System Operator - 27-hour industrial wastewater operator course

4. Water Laboratory Analyst - 27-hour basic water laboratory course or, a minimum of an Associate Degree in Biology or Chemistry, or, at the Board's discretion, other degrees containing sufficient courses in biology or chemistry

5. Wastewater Laboratory Analyst - 27-hour basic wastewater laboratory course or, a minimum of an Associate Degree in Biology or Chemistry, or, at the Board's discretion, other degrees containing sufficient courses in biology or chemistry.

6. Water Distribution System Operator - 27-hour water distribution course

7. Wastewater Collection System Operator - 27-hour wastewater collection course

(c) **Experience.** Required experience for certification is dependent upon the applicant's education, as follows:

1. Public Water Supply System Operator or Biological Wastewater Treatment System Operator

(i) High School Diploma, GED

Class IV - 1 month of experience; Class III - 3 months of experience;

Class II - 24 months of experience; Class I - 36 months of experience

(ii) Accredited Associate Degree in Biology, Chemistry, or, at the Board's discretion, other degrees containing sufficient courses in biology or chemistry

Class IV - 1 month of experience; Class III - 3 months of experience;

Class II - 18 months of experience; Class I - 30 months of experience

(iii) Accredited Bachelor of Science Degree in Biology, Chemistry, or, at the Board's discretion, other degrees containing sufficient courses in biology or chemistry

Class IV - 1 month of experience; Class III - 3 months of experience;

Class II - 12 months of experience; Class I - 24 months of experience

2. Industrial Wastewater Treatment System Operator or Water or Wastewater Laboratory Analyst or Wastewater Collection System Operator or Water Distribution System Operator

(i) High School Diploma, GED, Accredited Associate Degree in Biology, Chemistry, or, at the Board's discretion, Accredited Bachelor of Science Degree in Biology, Chemistry, or other degrees containing sufficient courses in biology or chemistry - 3 months experience required

(d) **Examination.**

1. An applicant must pass a written examination in order to receive a certification.

2. Applicants must apply for a certification within twelve (12) months of passing an examination.

3. A designated agent of the Board may administer the examinations. Examination shall be offered at least six (6) times annually.

4. The Board, through its designated agent, will provide reasonable accommodations to a qualified applicant with a disability in accordance with the Americans with Disabilities Act. The request for an accommodation by an individual with a disability must be in writing to the designated agent of the Board prior to the application deadline, along with appropriate documents, as indicated in the Request for Disability Accommodation Guidelines.

(e) **Current Certification.** Applicants must hold the following certificates before taking an examination for the next level of certification:

1. Public Water Supply System Operator

(i) No previous certification needed to take examination for Class IV

(ii) No previous certification needed to take examination for Class III

(iii) Must hold Class III prior to taking examination for Class II

(iv) Must hold Class II prior to taking examination for Class I

2. Biological Wastewater Treatment System Operator

(i) No previous certification needed to take examination for Class IV

(ii) No previous certification needed to take examination for Class III

(iii) Must hold Class III prior to taking examination for Class II

(iv) Must hold Class II prior to taking examination for Class I

3. Industrial Wastewater Treatment System Operator or Water or Wastewater Laboratory Analyst or Wastewater Collection System Operator or Water Distribution System Operator

(i) No previous certification needed to take examination

(f) Applicants for the following certifications may take the examination before the experience requirement is met, but shall not apply for the certifications until completing the requisite experience in the actual system operation:

1. Public Water Supply System Operator Class IV;

2. Public Water Supply System Operator Class III;

3. Biological Wastewater Treatment System Operator Class IV;

4. Biological Wastewater Treatment System Operator Class III;

5. Industrial Wastewater Treatment System Operator;

6. Water Laboratory Analyst;

7. Wastewater Laboratory Analyst;

8. Water Distribution System Operator;

9. Wastewater Collection System Operator.

(g) Applicants for the following certifications must have completed experience in the actual system operation prior to taking an examination:

1. Public Water Supply System Operator Class II;
2. Public Water Supply System Operator Class I;
3. Biological Wastewater Treatment System Operator Class II;
4. Biological Wastewater Treatment System Operator Class I.

(h) For those applicants who have a high school diploma or GED certificate, the Board may consider other factors, including post-secondary education and other training and experience, to determine satisfaction of the experience requirements.

Cite as Ga. Comp. R. & Regs. R. 750-3-.04

AUTHORITY: O.C.G.A. §§ [43-1-4](#), [43-1-7](#), [43-1-9](#), [43-1-19](#), [43-1-24](#), [43-1-25](#), [43-51-5](#), [43-51-6](#), [43-51-6.1](#), [43-51-7](#), [43-51-8](#), [43-51-9](#), [43-51-10](#).

HISTORY: Original Rule entitled "Revocation and Suspension of Certificates" adopted. F. Nov. 19, 1980; eff. Dec. 9, 1980.

Repealed: New Rule entitled "Renewal" adopted. F. July 8, 1988; eff. July 28, 1988.

Amended: Rule retitled "Renewal of a Class I Certificate." F. Sept. 14, 1989; eff. Oct. 4, 1989.

Repealed: New Rule entitled "Requirements" adopted. F. Dec. 17, 1991; eff. Jan. 6, 1992.

Repealed: New Rule of same title adopted. F. Feb. 5, 1993; eff. Feb. 25, 1993.

Amended: F. Sept. 20, 1993; eff. Oct. 10, 1993.

Amended: F. Dec. 28, 1993; eff. Jan. 17, 1994.

Amended: ER 750-3-0.2 -.04 adopted. F. June 7, 1994; eff. July 1, 1994, as specified by the Agency, to remain in effect for 120 days or until the effective date of a Permanent Rule covering the same subject matter is adopted, as specified by the Agency.

Amended: Permanent Rule adopted. F. July 27, 1994; eff. Aug. 16, 1994.

Amended: F. Sept. 11, 1995; eff. Oct. 1, 1995.

Amended: F. Dec. 2, 1997; eff. Dec. 22, 1997.

Amended: F. Feb. 9, 2000; eff. Feb. 29, 2000.

Amended: F. Jan. 11, 2001; eff. Jan. 31, 2001.

Amended: F. January 25, 2012; eff. Feb. 14, 2012.

Amended: F. Mar. 19, 2015; eff. Apr. 8, 2015.

Amended: F. Jan. 14, 2021; eff. Feb. 3, 2021.

Department 750. RULES OF STATE BOARD OF EXAMINERS FOR CERTIFICATION OF WATER AND WASTEWATER TREATMENT PLANT OPERATORS AND LABORATORY ANALYSTS

Chapter 750-4. APPLICATIONS

750-4-.01 Examination

Successful completion of Basic and Advanced courses taught by Board-approved education providers are required in order for applicants to sit for certification examinations, unless otherwise noted in these rules.

Cite as Ga. Comp. R. & Regs. R. 750-4-.01

AUTHORITY: O.C.G.A. §§ [43-1-4](#), [43-1-7](#), [43-1-9](#), [43-1-19](#), [43-1-24](#), [43-1-25](#), [43-51-5](#), [43-51-6](#), [43-51-6.1](#), [43-51-7](#), [43-51-8](#), [43-51-9](#), [43-51-10](#).

HISTORY: Original Rule entitled "Operator Classification" was filed on October 8, 1971; effective October 28, 1971.

Amended: Filed August 12, 1974; effective September 1, 1974.

Amended: Rule repealed and a new Rule entitled "Examinations" adopted. Filed November 19, 1980; effective December 9, 1980.

Amended: Rule repealed and a new Rule entitled "Applications" adopted. Filed July 8, 1988; effective July 28, 1988.

Amended: F. Dec. 29, 1989; eff. Jan. 18, 1990.

Amended: F. Sept. 17, 1990; eff. Oct. 7, 1990.

Repealed: New Rule, same title adopted. F. Dec. 17, 1991; eff. Jan. 6, 1992.

Repealed: New Rule of same title adopted. F. Feb. 5, 1993; eff. Feb. 25, 1993.

Amended: F. Sept. 20, 1993, eff. Oct. 10, 1993.

Repealed: New Rule entitled "Americans With Disabilities Act" adopted. F. Sept. 2, 1994; eff. Sept. 22, 1994.

Repealed: New Rule, same title adopted. F. Sept. 7, 1994; eff. Sept. 27, 1994.

Amended: F. Feb. 9, 2000; eff. Feb. 29, 2000.

Amended: New title "Examination." F. Jan. 14, 2021; eff. Feb. 3, 2021.

750-4-.02 Application for Certificate

A qualified applicant may apply for a certification by submission to the Board of a completed application and non-refundable application fee.

No application for certification will be considered by the board for approval without documented evidence that all of the following certification requirements have been met:

- (a) passage of the appropriate examination;
- (b) documentation of education, in accordance with Board Rule [750-3-.04\(1\)](#);
- (c) completion of the required course(s), in accordance with Board Rule [750-3-.04\(2\)](#);
- (d) completion of the required experience, in accordance with Board Rule [750-3-.04\(3\)](#).

Cite as Ga. Comp. R. & Regs. R. 750-4-.02

AUTHORITY: O.C.G.A. §§ [43-1-4](#), [43-1-7](#), [43-1-9](#), [43-1-19](#), [43-1-24](#), [43-1-25](#), [43-51-5](#), [43-51-6](#), [43-51-6.1](#), [43-51-7](#), [43-51-8](#), [43-51-9](#), [43-51-10](#).

HISTORY: Original Rule entitled "Requirements for Operator Certification" was filed on October 8, 1971; effective October 28, 1971.

Amended: Filed August 12, 1974; effective September 1, 1974. Amended: Rule repealed and a new Rule of same title adopted. Filed August 26, 1976; effective September 15, 1976.

Amended: Filed January 8, 1979; effective January 28, 1979.

Amended: Rule repealed and a new Rule entitled "Application" adopted. Filed November 19, 1980, effective December 9, 1980.

Amended: Filed October 9, 1981; effective October 29, 1981.

Amended: Filed December 10, 1982; effective December 30, 1982.

Amended: Filed March 20, 1984; effective April 9, 1984.

Amended: Rule repealed and a new Rule of same title adopted. Filed June 10, 1985; effective June 30, 1985.

Amended: Filed April 3, 1986, effective April 23, 1986.

Amended: Rule repealed and a new Rule entitled "Examinations" adopted. Filed July 8, 1988; effective July 28, 1988.

Amended: F. Mar. 9, 1990; eff. Mar. 29, 1990.

Repealed: New Rule, same title adopted. F. Dec. 17, 1991; eff. Jan. 6, 1992.

Repealed: New Rule of same title adopted. F. Feb. 5, 1993; eff. Feb. 25, 1993.

Amended: ER 750-4-0.3 -.02 was f. Jun. 7, 1994, eff. Jul. 1, 1994 as specified by the agency to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER.

Repealed: New Rule entitled "Applications" adopted. F. Sept. 7, 1994; eff. Sept. 27, 1994.

Amended: F. Sept. 13, 1994; eff. Oct. 3, 1994.

Amended: F. Sept. 11, 1995; eff. Oct. 1, 1995.

Amended: F. Feb. 9, 2000; eff. Feb. 29, 2000.

Amended: F. Jan. 14, 2021; eff. Feb. 3, 2021.

750-4-.03 Certification by Endorsement

(1) The Board may, upon application, issue a certificate without examination to any person who holds a certificate in good standing issued by another country or by any state, territory, or possession of the United States when the following criteria are fulfilled:

(a) the country, state, territory, or possession of the United States has, in the opinion of the Board, requirements substantially similar to those of the Board;

(b) the applicant submits an application for certification by endorsement on a Board-approved form;

(c) a verification of certification completed by the country, province, state, territory, or possession of the United States is submitted to the Board specifying that the applicant has a current certification and is in good standing;

(d) the applicant holds at a minimum a high school diploma or GED certificate and provides proof of such when submitting an application to the Board;

(e) the applicant submits the appropriate non-refundable application fee. (refer to Fee Schedule.)

(2) If an applicant cannot satisfy the standards above, the applicant may apply for certification under Rule [750-3-.04](#).

Cite as Ga. Comp. R. & Regs. R. 750-4-.03

AUTHORITY: O.C.G.A. §§ [43-1-4](#), [43-1-7](#), [43-1-9](#), [43-1-19](#), [43-1-24](#), [43-1-25](#), [43-51-5](#), [43-51-6](#), [43-51-6.1](#), [43-51-7](#), [43-51-8](#), [43-51-9](#), [43-51-10](#).

HISTORY: Original Rule entitled "Certificate" was filed on October 8, 1971; effective October 28, 1971.

Amended: Filed August 12, 1974; effective September 1, 1974.

Amended: Filed August 26, 1976; effective September 15, 1976.

Amended: Rule repealed. Filed November 19, 1980; effective December 9, 1980.

Amended: A new Rule entitled "Operator and Laboratory Analyst Change in Status" adopted. Filed May 1, 1987; effective May 21, 1987.

Amended: Rule repealed and a new Rule entitled "Failure of Examination" adopted. Filed July 8, 1988; effective July 28, 1988.

Repealed: New Rule, entitled "Lateral Entry" adopted. F. Dec. 17, 1991; eff. Jan. 6, 1992.

Repealed: New Rule of same title adopted. F. Feb. 5, 1993; eff. Feb. 25, 1993.

Amended: ER 750-4-0.3 -.03 was f. Jun. 7, 1994, eff. Jul. 1, 1994, as specified by the agency, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER.

Repealed: New Rule entitled "Certification by Endorsement" adopted. F. Sept. 7, 1994; eff. Sept. 27, 1994.

Amended: F. Sept. 13, 1994; eff. Oct. 3, 1994.

Amended: F. Sept. 11, 1995; eff. Oct. 1, 1995.

Amended: F. Feb. 9, 2000; eff. Feb. 29, 2000.

Amended: F. Jan. 14, 2021; eff. Feb. 3, 2021.

750-4-.04 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 750-4-.04

AUTHORITY: O.C.G.A. §§ [43-1-4](#), [43-1-7](#), [43-1-9](#), [43-1-19](#), [43-1-24](#), [43-1-25](#), [43-51-5](#), [43-51-6](#), [43-51-6.1](#), [43-51-7](#), [43-51-8](#), [43-51-9](#), [43-51-10](#).

HISTORY: Original Rule entitled "Revocation and Suspension of Certificate" was filed on August 26, 1976; effective September 15, 1976.

Amended: Rule repealed. Filed November 19, 1980; effective December 9, 1980.

Amended: Rule entitled "Operator and Laboratory Analyst Change in Status" adopted. Filed July 8, 1988; effective July 28, 1988.

Repealed: New Rule, entitled "Failure of Examinations" adopted. F. Dec. 17, 1991; eff. Jan. 6, 1992.

Repealed: New Rule of same title adopted. F. Feb. 5, 1993; eff. Feb. 25, 1993.

Amended: ER 750-4-0.3 -.04 was f. Jun. 7, 1994, eff. Jul. 1, 1994, as specified by the agency, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER.

Repealed: New Rule entitled "Examinations" adopted. F. Sept. 7, 1994; eff. Sept. 27, 1994.

Amended: F. Sept. 13, 1994; eff. Oct. 13, 1994.

Amended: F. Dec. 2, 1997; eff. Dec. 22, 1997.

Amended: F. Feb. 9, 2000; Feb. 29, 2000.

Amended: F. Jan. 11, 2001; eff. Jan. 31, 2001.

Repealed: F. Jan. 14, 2021; eff. Feb. 3, 2021.

Department 750. RULES OF STATE BOARD OF EXAMINERS FOR CERTIFICATION OF WATER AND WASTEWATER TREATMENT PLANT OPERATORS AND LABORATORY ANALYSTS

Chapter 750-5. OPERATIONAL ACTIVITIES WITHOUT FURTHER CERTIFICATION

750-5-.01 Operational Activities Without Further Certification

- (1) Certified Class I, II, or III Public Water Supply System Operators may operate water distribution systems without further certification.
- (2) Certified Class I, II or III Biological Wastewater Treatment System Operators may operate wastewater collection systems without further certification.
- (3) Certified Class I, II or III Biological Wastewater Treatment System Operators may operate industrial wastewater treatment plants without further certification.
- (4) Certified Industrial Wastewater Treatment System Operators may operate industrial wastewater treatment plants and/or collection systems tributary to their plant.
- (5) Certified Class I or II Public Water Supply System Operators may perform the duties of a water laboratory analyst. Certified Class I or II Biological Wastewater Treatment System Operators may perform the duties of a wastewater laboratory analyst in conducting certain tests for reporting purposes as defined by the Board without further certification.
- (6) Certified Class IV Very Small Water System Operators may operate only very small public water supply systems and their distribution systems.
- (7) Certified Class IV Wastewater Treatment System Operators may operate only Class IV Wastewater Treatment Systems and their collection systems, as defined by the Division.

Cite as Ga. Comp. R. & Regs. R. 750-5-.01

AUTHORITY: O.C.G.A. §§ [43-1-4](#), [43-1-7](#), [43-1-9](#), [43-1-19](#), [43-1-24](#), [43-1-25](#), [43-51-5](#), [43-51-6](#), [43-51-6.1](#), [43-51-7](#), [43-51-8](#), [43-51-9](#), [43-51-10](#).

HISTORY: Original Rule entitled "Examinations" was filed on October 8, 1971; effective October 28, 1971.

Amended: Filed November 22, 1972; effective December 12, 1972.

Amended: Filed August 12, 1974; effective September 1, 1974.

Amended: Rule repealed and a new Rule entitled "Application" adopted. Filed November 19, 1980; effective December 9, 1980.

Amended: Rule repealed and a new Rule of same title adopted. Filed July 5, 1983; effective July 25, 1983.

Amended: Rule repealed and a new Rule of same title adopted. Filed June 10, 1985; effective June 30, 1985.

Amended: Rule repealed and a new Rule of same title adopted. Filed April 3, 1986; effective April 23, 1986.

Repealed: New Rule entitled "Operational Activities without Further Certification" adopted. F. Dec. 17, 1991; eff. Jan. 6, 1992.

Repealed: New Rule of same title adopted. F. Feb. 5, 1993; eff. Feb. 25, 1993.

Amended: F. Sept. 20, 1993; eff. Oct. 10, 1993.

Amended: ER 750-5-0.4 -.01 was f. Jun. 7, 1994, eff. Jul. 1, 1994 as specified by the Agency, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER.

Amended: Permanent Rule adopted. F. Jul. 27, 1994; eff. Aug. 16, 1994.

Amended: F. Sept. 11, 1995; eff. Oct. 1, 1995.

Amended: F. Dec. 2, 1997; eff. Dec. 22, 1997.

Amended: F. Feb. 9, 2000; eff. Feb. 29, 2000.

Amended: F. Jan. 14, 2021; eff. Feb. 3, 2021.

Department 750. RULES OF STATE BOARD OF EXAMINERS FOR CERTIFICATION OF WATER AND WASTEWATER TREATMENT PLANT OPERATORS AND LABORATORY ANALYSTS

Chapter 750-6. EXPIRATION, RENEWAL, AND CONTINUING EDUCATION

750-6-.01 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 750-6-.01

AUTHORITY: O.C.G.A. §§ [43-1-4](#), [43-1-7](#), [43-1-9](#), [43-1-19](#), [43-1-24](#), [43-1-25](#), [43-51-5](#), [43-51-6](#), [43-51-6.1](#), [43-51-7](#), [43-51-8](#), [43-51-9](#), [43-51-10](#).

HISTORY: Original Rule entitled "Applications" adopted. F. Oct. 8, 1971; eff. Oct. 28, 1971.

Repealed: New Rule entitled "Survey" adopted. F. Nov. 19, 1980; eff. Dec. 9, 1980.

Repealed: F. Sept. 10, 1982; eff. Sept. 30, 1982.

Amended: New Rule entitled "Disciplinary Procedures" adopted. F. July 8, 1988; eff. July 28, 1988.

Repealed: New Rule entitled "Expiration Date" adopted. F. Dec. 17, 1991; eff. Jan. 6, 1992.

Repealed: F. Jan. 14, 2021; eff. Feb. 3, 2021.

750-6-.02 Expiration and Renewal of a Certificate

(1) Certificates expire on June 30 of odd-numbered years and must be renewed every two (2) years.

(2) Applicants approved for initial certification are exempt from continuing education requirements for their first renewal period.

(3) Renewal of a certificate must be accompanied by a renewal application, fee (see Fee Schedule), and attestation of Board-approved continuing education ("CE") points completed since the last renewal period. The required number of points for each renewal certification is as follows:

CURRENT CERTIFICATION / REQUIRED CE POINTS / SPECIFICATIONS

Class I Operator Water & Wastewater / 24 CE Points / At least 50% of the points must be in course(s) approved for Water, Wastewater, or both.

Class II Operator Water & Wastewater / 18 CE Points / At least 50% of the points must be in course(s) approved for Water, Wastewater, or both.

Industrial Wastewater Operator / 18 CE Points / At least 50% of the points must be in course(s) approved for Water, Wastewater, or both.

Laboratory Analyst Water & Wastewater / 18 CE Points / At least 50% of the points must be in course(s) approved for Water, Wastewater, or both.

Class III Operator Water & Wastewater / 12 CE Points / At least 50% of the points must be in course(s) approved for Water, Wastewater, or for both.

Water Distribution System Operator / 12 CE Points / At least 50% of the points must be in course(s) approved for Water, Wastewater, or both.

Wastewater Collection System Operator / 12 CE Points / At least 50% of the points must be in course(s) approved for Water, Wastewater, or both.

Class IV Operator Water & Wastewater / 6 CE Points / All of the points must be in course(s) approved for Water, Wastewater, or both.

(4) Points must be earned from a Board-approved continuing education course. The same course shall not count more than once during a renewal period in meeting the total points required for certificate renewal.

(5) Certificates may be renewed during the late renewal period between July 1 and July 31 of odd-numbered years with submission of a renewal application, renewal fee, and penalty fee as noted on the Fee Schedule. Continuing education points acquired to renew that certificate during the penalty period may not be used again during the next renewal cycle.

(6) Proof of continuing education as required by Rule [750-6-.05\(1\)](#) must be retained by the certificate holder for three (3) years and shall be submitted to the Board upon request.

Cite as Ga. Comp. R. & Regs. R. 750-6-.02

AUTHORITY: O.C.G.A. §§ [43-1-4](#), [43-1-7](#), [43-1-9](#), [43-1-19](#), [43-1-24](#), [43-1-25](#), [43-51-5](#), [43-51-6](#), [43-51-6.1](#), [43-51-7](#), [43-51-8](#), [43-51-9](#), [43-51-10](#), [43-51-6\(d\)](#).

HISTORY: Original Rule entitled "Examination" adopted. F. Oct. 8, 1971; eff. Oct. 28, 1971.

Repealed: New Rule entitled "Investigation" adopted. F. Nov. 19, 1980; eff. Dec. 9, 1980.

Repealed: F. July 8, 1988; eff. July 28, 1988.

Amended: New Rule entitled "Renewal of a Certificate" adopted. F. Dec. 17, 1991; eff. Jan. 6, 1992.

Amended: F. Feb. 5, 1993; eff. Feb. 25, 1993.

Amended: F. Sept. 20, 1993; eff. Oct. 10, 1993.

Amended: ER. 750-6-0.5-.02 adopted. F. June 7, 1994; eff. July 1, 1994, as specified by the Agency.

Amended: Permanent Rule adopted. F. July 27, 1994; eff. Aug. 16, 1994.

Amended: F. Sept. 11, 1995; eff. Oct. 1, 1995.

Amended: Feb. 9, 2000; eff. Feb. 29, 2000.

Amended: F. June 16, 2005; eff. July 6, 2005.

Amended: F. Feb. 22, 2012; eff. Mar. 13, 2012.

Amended: F. Mar. 19, 2015; eff. Apr. 8, 2015.

Amended: New title "Expiration and Renewal of a Certificate." F. Jan. 14, 2021; eff. Feb. 3, 2021.

750-6-.03 Renewal of More Than One Certificate

(1) An operator may maintain current certification in only one class of a category. When a person receives a higher class certificate, their lower class certificate shall be rendered void.

(2) An operator or analyst who holds more than one certificate must submit the following:

(a) Renewal application for each certificate;

(b) renewal fee for each certificate; and

(c) attestation of completion of the required continuing education points for the highest level of currently held certificate (i.e., 24, 18, 12, or 6). Refer to Rule [750-6-.02](#) for the number of points required to renew a certificate

1. Course(s) which are approved for a specified number of recertification points and are required for eligibility to sit for an examination may be used for renewal of a currently held certificate.

2. Operators who hold dual certificates (i.e., a water certificate and a wastewater certificate) are required to obtain continuing education points in each discipline. Such operator must obtain a minimum of 25% of the required continuing education points in each discipline to satisfy renewal requirements.

Cite as Ga. Comp. R. & Regs. R. 750-6-.03

AUTHORITY: O.C.G.A. §§ [43-1-4](#), [43-1-7](#), [43-1-9](#), [43-1-19](#), [43-1-24](#), [43-1-25](#), [43-51-5](#), [43-51-6](#), [43-51-6.1](#), [43-51-7](#), [43-51-8](#), [43-51-9](#), [43-51-10](#), [43-51-6\(d\)](#).

HISTORY: Original Rule entitled "Validity of Voluntary Certificate" was filed on October 8, 1971; effective October 28, 1971.

Amended: Rule repealed and a new Rule entitled "Orders, Hearings, Civil Actions, Appeals" adopted. Filed November 19, 1980; effective December 9, 1980.

Amended: Rule repealed. Filed July 8, 1988; effective July 28, 1988.

Amended: New Rule entitled "Renewal of More Than One Certificate" adopted. F. Dec. 17, 1991; eff. Jan. 6, 1992.

Amended: F. Feb. 5, 1993; eff. Feb. 25, 1993.

Amended: F. Sept. 20, 1993; eff. Oct. 10, 1993.

Amended: F. June 16, 2005; eff. July 6, 2005.

Amended: F. Feb. 22, 2012; eff. Mar. 13, 2012.

Amended: F. Jan. 14, 2021; eff. Feb. 3, 2021.

750-6-.04 Education Providers, Courses, and Points

(1) The Board shall maintain a list of currently approved course providers in accordance with eligibility criteria published by the Board. Course providers must be approved by the Board or its designee in order for applicants to receive credit. The Board may also elect to approve individual courses. A request by a course provider for approval must be submitted on a form that may be obtained from the Board and must be accompanied by the appropriate fee and supporting documents as required by the Board (See Fee Schedule). Effective July 1, 2013, course providers shall agree to provide rosters in electronic format of all attendees for all courses approved by the Board. The

Professional Licensing Boards Division shall provide the electronic format for use in submitting rosters. All course approvals shall expire on or before January 31 of even-numbered years.

(2) Providers of Basic and Advanced courses must teach such courses in a traditional classroom setting. These courses are required for applicants to be eligible to sit for a certification examination.

(3) Education Providers desiring Board consideration for approval must submit to the Board a completed Registration Form and required information to the Board; and

(4) The Board may conduct an audit of Education Providers and education courses to ensure compliance.

(5) The Board may require Education Providers to submit an electronic roster of attendees for all courses approved by the Board.

(6) Continuing Education Courses.

Approved education courses expire January 31 of even numbered years. The Board may approve continuing education courses for Management Safety, Water, Wastewater, or both Water and Wastewater, which are offered in person, online, through correspondence courses, and Webinars and Webcasts subject to the following:

(a) Submission of completed application and appropriate fee; and

(b) documentation of topic(s) to be taught, indicating hours of instruction for each topic; and

(c) credentials of the educators/presenters involved; and

(d) name of the moderator documenting on-site attendance/registration.

(e) Only operational or regulatory topics will be approved for webinars or webcasts.

(f) Certificates of completion must be presented to attendees who complete the webinar or webcast.

(7) Determination of Continuing Education Points.

(a) Points shall be awarded in whole numbers. No partial points shall be awarded for courses that total less than whole hours.

(b) Traditional classroom courses on operational, analytical, safety and management topics shall be granted one point per contact hour up to a maximum of 6 points per day and 12 points per event.

(c) Online courses on operational, analytical, safety, and management topics shall be granted one-half point per contact hour up to a maximum of 6 points unless the course provider demonstrates greater credit is justified through beta testing results (IACET - International Association for Continuing Education and Training).

Cite as Ga. Comp. R. & Regs. R. 750-6-.04

AUTHORITY: O.C.G.A. §§ [43-1-4](#), [43-1-7](#), [43-1-9](#), [43-1-19](#), [43-1-24](#), [43-1-25](#), [43-51-5](#), [43-51-6](#), [43-51-6.1](#), [43-51-7](#), [43-51-8](#), [43-51-9](#), [43-51-10](#).

HISTORY: Original Rule entitled "Operator Certification" was filed on October 8, 1971; effective October 28, 1971.

Amended: Rule repealed. F. November 19, 1980; eff. December 9, 1980.

Repealed: New Rule entitled "Basic, Advanced and Continuing Education Courses" adopted. F. Dec. 17, 1991; eff. Jan. 6, 1992.

Repealed: New Rule, same title adopted. F. Jan. 11, 2001; eff. Jan. 31, 2001.

Repealed: New Rule of same title adopted. F. June 16, 2005; eff. July 6, 2005.

Repealed: New Rule of same title adopted. F. Feb. 22, 2012; eff. Mar. 13, 2012.

Amended: New title "Education Providers, Courses, and Points." F. Jan. 14, 2021; eff. Feb. 3, 2021.

750-6-.05 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 750-6-.05

AUTHORITY: O.C.G.A. §§ [43-1-4](#), [43-1-7](#), [43-1-9](#), [43-1-19](#), [43-1-24](#), [43-1-25](#), [43-51-5](#), [43-51-6](#), [43-51-6.1](#), [43-51-7](#), [43-51-8](#), [43-51-9](#), [43-51-10](#).

HISTORY: Original Rule entitled "Documentation of Continuing Education" adopted F. Dec. 17, 1991; eff. Jan. 6, 1992.

Amended: F. Sept. 11, 1995; eff. Oct. 1, 1995.

Repealed: New Rule, same title adopted. F. Jan. 11, 2001; eff. Jan. 31, 2001.

Repealed: F. Jan. 14, 2021; eff. Feb. 3, 2021.