

Georgia Rules and Regulations

Administrative Bulletin for July 2021

OFFICE OF SECRETARY OF STATE ADMINISTRATIVE PROCEDURE DIVISION

5800 Jonesboro Road
Morrow, GA 30260
(678) 364-3785

Final rules filed with the Georgia Secretary of State during the month of *July 2021*:

Table of Contents

Department	Rules List	Action	Filed	Effective	Page
40. RULES OF GEORGIA DEPARTMENT OF AGRICULTURE	40-10-2-.02 --- 40-10-2-.04 , 40-10-2-.06	amended	Jul. 8	July 28, 2021	4
80. RULES OF DEPARTMENT OF BANKING AND FINANCE	80-1-1-.01 , 80-1-1-.04 , 80-1-1-.05 , 80-1-1-.08 , 80-1-1-.09	amended	Jul. 7	July 27, 2021	9
	80-1-4-.01	amended	Jul. 7	July 27, 2021	16
	80-1-12-.01	amended	Jul. 7	July 27, 2021	23
	80-3-1-.01 , 80-3-1-.07	amended	Jul. 7	July 27, 2021	25
	80-5-1-.01 , 80-5-1-.03	amended	Jul. 7	July 27, 2021	34
	80-5-4-.02	amended	Jul. 7	July 27, 2021	40
	80-11-1-.02	non- substantive change	Jul. 15	July 15, 2021	41
	80-11-3-.01	non- substantive change	Jul. 15	July 15, 2021	43
	80-14-2-.02	amended	Jul. 7	July 27, 2021	48
180. STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS	180-11-.07	amended	Jul. 7	July 27, 2021	50

Department	Rules List	Action	Filed	Effective	Page
464. GEORGIA PEACE OFFICER STANDARDS AND TRAINING COUNCIL	464-3-.13	repealed	Jul. 2	July 22, 2021	51
	464-6-.05 , 464-6-.08	amended	Jul. 2	July 22, 2021	52
	464-13-.21 --- 464-13-.23	adopted	Jul. 2	July 22, 2021	54
478. RULES OF THE STATE PERSONNEL BOARD	478-1-.01 , 478-1-.16	amended	Jul. 15	June 22, 2021	56
480. RULES OF GEORGIA STATE BOARD OF PHARMACY	480-6-.02	non-substantive change	Jul. 20	July 20, 2021	84
565. GEORGIA SAFE HARBOR FOR SEXUALLY EXPLOITED CHILDREN FUND COMMISSION	565-1-.01	adopted	Jul. 6	July 26, 2021	88

Final rules filed with the Georgia Secretary of State that became effective *July 2021*:

Department	Rules List	Action	Filed	Effective
159. DEPARTMENT OF ECONOMIC DEVELOPMENT	159-1-1-.02 --- 159-1-1-.08	amended	June 18, 2021	Jul. 8
360. RULES OF GEORGIA COMPOSITE MEDICAL BOARD	360-2-.05	repealed	June 14, 2021	Jul. 4
	360-5-.03 --- 360-5-.05 , 360-5-.11 , 360-5-.12	repealed	June 16, 2021	Jul. 6
375. RULES OF DEPARTMENT OF DRIVER SERVICES	375-3-1-.02	amended	June 16, 2021	Jul. 6
	375-3-2-.01	amended	June 16, 2021	Jul. 6
391. RULES OF GEORGIA DEPARTMENT OF NATURAL RESOURCES	391-3-7-.01 , 391-3-7-.05 , 391-3-7-.09 , 391-3-7-.11	amended	June 25, 2021	Jul. 15
475. RULES OF STATE BOARD OF PARDONS AND PAROLES	475-3-.05 , 475-3-.10	amended	June 11, 2021	Jul. 1
505. PROFESSIONAL STANDARDS COMMISSION	505-2-.21	amended	June 15, 2021	Jul. 1
	505-2-.27	repealed	June 15, 2021	Jul. 1
	505-2-.142 , 505-2-.163 , 505-2-.164	amended	June 15, 2021	Jul. 1
	505-2-.180	repealed	June 15, 2021	Jul. 1
	505-3-.09	repealed	June 15, 2021	Jul. 1
	505-3-.82 --- 505-3-.88 , 505-3-.88 --- 505-3-.96	amended	June 15, 2021	Jul. 1
	505-3-.97	repealed	June 15, 2021	Jul. 1
	505-3-.98 --- 505-3-.112	amended	June 15, 2021	Jul. 1
515. RULES OF GEORGIA PUBLIC SERVICE COMMISSION	515-12-1-.35	amended	June 16, 2021	Jul. 6
620. RULES OF GEORGIA STRUCTURAL PEST CONTROL COMMISSION	620-9-.01 , 620-9-.02	amended	Apr. 26, 2021	Jul. 1
	620-9-.03	adopted	Apr. 26, 2021	Jul. 1

Department 40. RULES OF GEORGIA DEPARTMENT OF AGRICULTURE

Chapter 40-10. MEAT AND POULTRY INSPECTION

Subject 40-10-2. POULTRY INSPECTION - POULTRY PROCESSING

40-10-2-.02 Incorporation by Reference: Code of Federal Regulations, 9 CFR Part 381 - Federal Poultry Inspection Regulations

(1) The current mandatory Poultry Products Inspection Regulations (Code of Federal Regulations, 9 CFR, Part 381) and Regulatory Requirements under the Poultry Products Inspection Act (Code of Federal Regulations, [9 CFR, Parts 416 and 417](#)) of the United States Department of Agriculture, are hereby adopted in their entirety with the exception of the deleted regulations specified in [40-10-2-.03](#) of this chapter and amended regulations as specified in [40-10-2-.04](#) of this chapter.

(2) Definitions in the incorporated parts of the Federal regulations on mandatory poultry products inspection (Code of Federal Regulations, [9 CFR, Parts 381, 416, and 417](#)) of the United States Department of Agriculture are amended to read as follows when used in this chapter. Unless otherwise required by the context, the following terms shall be construed, respectively to mean:

- (a) "The Act" means the Georgia Code Annotated 26-2-200 through 26-2-214.
- (b) "The Administrator", "Regional Director", "Area Supervisor", "District Manager", or "District Office" means the Director of Meat Inspection, Georgia Department of Agriculture.
- (c) "Circuit Supervisor" or "Inspection Service Supervisor" means the Assistant District Supervisor of the Poultry Inspection Program of the Georgia Department of Agriculture, Meat Inspection Section.
- (d) "The Compliance Program, Regulatory Programs, FSIS" means the Georgia Department of Agriculture, Meat Inspection Compliance Program.
- (e) "The Department", "United States Department of Agriculture", "USDA", or the "U.S. Department of Agriculture" means the Georgia Department of Agriculture. For brevity the acronym GDA is also used in this rule.
- (i) "U.S. Condemned" means GDA Condemned.
- (ii) "U.S. Detained" means GDA Detained.
- (iii) "U.S. Inspected and Condemned" means GDA Inspected and Condemned.
- (iv) "U.S. Inspected and Passed" means GDA Inspected and Passed.
- (v) "U.S. Passed for Cooking" means GDA Passed for Cooking.
- (vi) "U.S. Passed for Refrigeration" means GDA Passed for Refrigeration.
- (vii) "U.S. Retained" means GDA Retained.
- (viii) "U.S. Rejected" means GDA Rejected.
- (ix) "U.S. Suspect" means GDA Suspect. "U.S. Government Seals" means GDA Seals.

(f) "Federal" means State.

(g) "Federally Inspected and Passed", "U.S. Inspected and Passed", "U.S. Inspected for Wholesomeness", and "Federally Inspected for Wholesomeness", means GDA Inspected and Passed.

(h) "Food Inspector", "Inspector", "Inspection Service Employee", "USDA Inspector", "USDA Program Official", or "Program Inspector" means an inspector of the Poultry Inspection Program of the Georgia Department of Agriculture, Meat Inspection Section.

(i) "Food Labeling Division, Regulatory Programs, FSIS" means the office of the Director, Georgia Department of Agriculture, Meat Inspection Section.

(j) "The Program", "Federal Inspection", "Federal Poultry Inspection", "Meat and Poultry Inspection", "Meat and Poultry Inspection Program", "Inspection Service", "Food Safety and Inspection Service", "Food Safety and Quality Service", "Technical Services", "Technical Service Center", "Standards and Labeling Division", and "Agency" mean the Poultry Inspection Program of the Georgia Department of Agriculture, Meat Inspection Section.

(k) "The Secretary" means the Commissioner of the Georgia Department of Agriculture.

(l) "Veterinary Supervisor" means Statewide Veterinary Supervisor, District Supervisor, or the Director of the Poultry Inspection Program of the Georgia Department of Agriculture, Meat Inspection Section.

(m) "Veterinary Inspector" means Public Health Veterinarians of the Poultry Inspection Program of the Georgia Department of Agriculture, Meat Inspection Section.

(n) "USDA Inspection Legend" and "Official Inspection Legend" mean the Inspection Legend of the Poultry Inspection Program of the Georgia Department of Agriculture, Meat Inspection Section as outlined in this chapter of the regulations.

(3) Nothing in this Subject 40-10-2 shall be construed as authorizing the slaughter, other than for humane euthanasia or disease control, of poultry by a dealer, broker, poultry market operator, or employee or contractor thereof or any person acquiring live poultry from any of them on the premises of the dealer or broker or on the premises of a sales establishment in violation of Official Code of Georgia Annotated Section [4-4-82.1](#).

Cite as Ga. Comp. R. & Regs. R. 40-10-2-.02

AUTHORITY: O.C.G.A. § [26-2-202](#).

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

Repealed: New Rule entitled "Incorporation by Reference: Code of Federal Regulations, 9 CFR Part 381 - Federal Poultry Inspection Regulations" adopted. F. Jan. 17, 2003; eff. Feb. 6, 2003.

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

40-10-2-.03 Deletion of Incorporated Sections: Code of Federal Regulations, 9 CFR 381 - Federal Poultry Inspection Regulations

(1) The following sections of the Code of Federal Regulations governing the mandatory poultry products inspection (9 CFR, Part 381) of the United States Department of Agriculture incorporated by reference under Section [40-10-2-.02](#) of this rule are deleted and are not rules of the Georgia Department of Agriculture: 381.6; 381.10(a)(2), (4), (6), and (7); 381.16; 381.17; 381.30; 381.31; 381.38; 381.39; 381.96; 381.97; 381.98; 381.104 through 381.112; 381.123(b)(3) and (4); 381.133(a)(1); 381.145(f); 381.185; 381.186; 381.195 through 381.236.

(2) In [9 CFR 381.10\(a\)\(3\)](#), the words "and the statement 'Exempt- P.L. 90-492' " are deleted.

(3) In [9 CFR 381.123\(b\)\(2\) and \(4\)](#) the words "and accompanied by the prefix 'P' " are deleted.

Cite as Ga. Comp. R. & Regs. R. 40-10-2-.03

AUTHORITY: O.C.G.A. § [26-2-202](#).

HISTORY: Original Rule entitled "Plans for Construction or Remodeling" adopted. F. and eff. June 30, 1965.

Repealed: New Rule entitled "Deletion of Incorporated Sections: Code of Federal Regulations, 9 CFR Part 381 - Federal Poultry Inspection Regulations" adopted. F. Jan. 17, 2003; eff. Feb. 6, 2003.

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

40-10-2-.04 Incorporation as Amended; Federal Poultry Inspection Regulations Sections

The following sections of the Code of Federal Regulations governing the mandatory poultry products inspection (9 CFR, Part 381) of the United States Department of Agriculture incorporated by reference under Section 40-10-2-.02 of this rule are amended as specified to allow incorporation as rules of the Georgia Department of Agriculture.

(1) Code of Federal Regulations [9 CFR 381.10\(b\)](#) shall be amended to read "[n]o person qualifies for any exemption specified in paragraph (a)(5) of this section if, in the current calendar year, such person (1) Slaughters or processes the products of more than 20,000 poultry, or (2) Slaughters or processes poultry products at a facility used for slaughtering or processing poultry products by any other person, except when the Commissioner grants such exemption after determining, upon review of a person's application, that such an exemption will not impair effectuating the purposes of the Act."

(2) Code of Federal Regulations [9 CFR 381.35](#) shall be amended to read "a rate as determined by the Commissioner" instead of "a rate of \$9.28 per hour".

(3) Code of Federal Regulations [9 CFR 381.17](#) shall be amended to include:

(a) The applicant for inspection will be responsible for furnishing acceptable drawings and specifications:

(b) Each applicant for inspection shall submit to the program four copies of:

1. Complete drawings with specifications of the floor plans of the establishment for which inspection is requested, showing the locations of principal pieces of equipment, floor drains, principal drainage lines, hand-washing basins, and hose connections for clean-up purposes;

2. A plot plan showing the limits of the establishment's premises, locations in outline of buildings on the premises, cardinal points of the compass, and roadways and railways serving the establishment; and

3. A room schedule showing the finish of walls, floors, and ceilings of all rooms in the establishment. The specifications shall include statements describing the water supply, plumbing, drainage, refrigeration, equipment, lighting, and operations of the establishment. Applicants for inspection may request information from the Commissioner concerning the requirements before submitting plans.

(4) Code of Federal Regulations [9 CFR 381.145\(a\)](#) shall be amended to include: "Poultry Product from an official establishment includes product from a state facility overseen by the Program."

Cite as Ga. Comp. R. & Regs. R. 40-10-2-.04

AUTHORITY: O.C.G.A. §§ [26-2-202](#), [26-2-206](#).

HISTORY: Original Rule entitled "Building and Plant Facilities" adopted. F. and eff. June 30, 1965.

Repealed: New Rule entitled "Incorporation as Amended: Federal Poultry Inspection Regulations Sections" adopted. F. Jan. 17, 2003; eff. Feb. 6, 2003.

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

40-10-2-.06 Facilities Requiring Inspection

(1) Establishments requiring inspection:

(a) Inspection under the regulation in this chapter is required at:

1. Every establishment, except as provided in 9 CFR Chapter 381.10(a)(1) and (5), in which any domesticated poultry are slaughtered for transportation or sale as articles of commerce, or in which any products of, or derived from, carcasses of poultry are, wholly or in part, prepared for transportation of sale as articles of commerce which are intended for use as human food; and

2. Every establishment designated by the Commissioner pursuant to paragraph 40-10-2-.06(b) and/or (c) of this Chapter as one producing adulterated products, which would clearly endanger the public health.

(b) The Commissioner may extend the inspection requirements to any establishment in the State at which products are prepared for distribution solely within the State, if he determines in accordance with the provisions of the Act that it is producing adulterated products, which would clearly endanger the public health.

(c) Whenever any complaint is received by the Commissioner from any person alleging that any retail store claiming exemption under this paragraph (a) has been operated in violation of the conditions prescribed in this section for retail exemption, and the Commissioner, upon investigation of the complaint, has reason to believe that any such violation has occurred he shall so notify the operator of the retail store and afford him reasonable opportunity to present his views informally with respect to the matter. Thereafter, if the Commissioner still has reason to believe that such a violation has occurred, and that a requirement that the operator keep records concerning the operations of the retail store would effectuate the purposes of the Act, the Commissioner shall order the operator to maintain complete, accurate, and legible records of total monthly purchases and of total monthly sales of poultry, poultry byproducts, and poultry food products, in terms of dollar values of the products involved. Such records shall separately show total sales to household consumers and total sales to other consumers and shall be maintained for the period prescribed in [40-10-1-.22\(3\)](#) of the Georgia Meat Inspection Rules. If the operator maintains copies of bills of lading, receiving and shipping invoices, warehouse receipts, or similar documents, which give the information required herein, additional records are not required by this paragraph.

(2) Poultry and products entering official establishments. All poultry and all products entering any official establishment and all products prepared, in whole or in part, therein, shall be inspected, handled, stored, prepared, packaged, marked, and labeled as required by the regulations in this chapter.

(3) Establishments that qualify for a low volume exemption from inspection as prescribed in Rule 40-10-02-.04(1) must register with the Department as a Small Poultry Processor and pay any applicable registration fees.

(4) Establishments that qualify for a low volume exemption from inspection as prescribed in Rule 40-10-02-.04(1) must comply with all other applicable statutory and regulatory requirements including, but not limited to, the following:

(a) requirements relating to the prevention and control of diseases in livestock;

(b) requirements relating to the disposal of dead animals;

(c) requirements contained in Subject 40-13-10 entitled "Poultry";

(d) requirements contained in Rule [40-13-2-.15](#) relating to interstate movement health requirements for poultry; and
(f) requirements contained in the Department's "Small Poultry/Pasture Poultry Guidelines".

Cite as Ga. Comp. R. & Regs. R. 40-10-2-.06

AUTHORITY: O.C.G.A. §§ [26-2-208](#), [26-2-214](#).

HISTORY: Original Rule entitled "Maintenance of Sanitary Conditions and Precautions Against Contamination of Products" F. and eff. June 30, 1965.

Repealed: New Rule entitled "Facilities Requiring Inspection" adopted. F. Jan. 17, 2003; eff. Feb. 6, 2003.

Amended: F. July 8, 2021; eff. July 28, 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-.01 Applications, Registrations and Notifications, Generally

(1) Proposed activities in Georgia by financial institutions may require a form application, a letter application, a form registration, or merely a letter notification to the Department. Certain qualifying institutions may be eligible to shorten the form of application, and may benefit from an expedited processing time including shortened or consolidated notice periods. Such criteria for banks are provided at Department of Banking and Finance Rule [80-1-1-.10](#), and Rule [80-6-1-.13](#). Criteria for bank holding companies may be found at Rule [80-6-1-.16](#). Requirements for all banking institutions to conduct certain other activities have been streamlined to coordinate with federal requirements.

(2) Where forms are required, they may be obtained from the Department.

(3) Other Applications. Within these Rules: Chapter 80-2-1 covers Credit Union activities; Chapter 80-3-1 covers Money Transmitters, Payment Instrument Sellers, and Check Cashers; Chapter 80-6-1 covers Holding Companies; and Chapter 80-11-1 covers Mortgage Lenders and Brokers.

(4) The Department has made available an Applications Manual and a Statement of Policy with details of the procedures required for most activities of regulated institutions in Georgia. Interested persons should consult the Applications Manual, Department's Statement of Policy, Rules, and applicable law which form the basis for Department decisions. These materials are available electronically. The regulations provide an overview; the Applications Manual and Statement of Policy provide detailed instructions.

(5) Fees are provided in DBF Rule Chapter 80-5-1.

(6) References in these Rules to "Code Section", "O.C.G.A.", "Title", "Code of Georgia", and "Section" are to the Official Code of Georgia Annotated.

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

AUTHORITY: O.C.G.A. § [7-1-61](#).

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

Repealed: New Rule entitled "Form of Application, Request for" adopted. F. June 9, 1972; eff. June 29, 1972.

Repealed: New Rule of the same title adopted. F. July 12, 1974; eff. Aug. 1, 1974.

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

Repealed: New Rule of the same title adopted. F. July 13, 1981; eff. Aug. 2, 1981.

Amended: Rule retitled "Application Forms, Charter Application Request". F. Sept. 26, 1995; eff. Oct. 16, 1995.

Amended: Rule retitled "Applications, Registrations and Notifications, Generally". 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. Jun. 10, 2014; eff. Jun. 30, 2014.

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

Amended: F. July 7, 2021; eff. July 27, 2021.

80-1-1-.04 Notification of Filing and Protest

(1) Applicants will be notified of official acceptance of a bank charter application or receipt of certain other applications for filing unless the department issues an approval of the application within seven days of receipt. For a charter application or merger application pursuant to O.C.G.A. § [7-1-532](#), the applicant shall cause a notice, in such form as the Department may prescribe, to be published in a newspaper of general circulation in the community in which the applicant's main office is located and in a newspaper of general circulation in any other community in which the applicant proposes to engage in business as notification to any interested parties of their right to comment or protest the application, unless otherwise provided in a rule or law pertaining to a specific transaction. The Applications Manual should be referenced for details regarding the publication requirements, if any, for other types of applications.

(2) Publication of notice for public comment on a bank charter application or merger application pursuant to O.C.G.A. § [7-1-532](#) may commence no sooner than five (5) days prior to the date the application is mailed or delivered to the Department. Any person desiring to comment upon or formally protest a bank charter application must notify the Department in writing within 30 days of the date of the publication of the notice in paragraph (1). The comment period may be extended if official acceptance of a bank charter application is delayed. Any person desiring to comment upon or formally protest a merger or acquisition pursuant to O.C.G.A. § [7-1-532](#) as set forth in Rule [80-6-1-.03](#) must notify the Department within 30 days of the date of the publication of the notice in paragraph (1).

(3) All comments and any notices of intent to protest pursuant to paragraph (2) and filed on a timely basis shall be reviewed and considered by the Department. The Commissioner may grant or deny a request for hearing in connection with a protest of an application. The Commissioner shall hold a hearing if he/she determines that written comments are insufficient to make an adequate presentation of the issues raised or if he/she determines that a hearing would otherwise be in the public interest. If a hearing is to be held, the protester and the applicant will be notified of a date as established by the department. Intention to appear at such hearing must be filed by the protester in writing with the Department within 15 days from date of notification of hearing date. Failure to file such intentions shall constitute grounds for canceling any scheduled hearing.

(4) Notwithstanding other provisions of this regulation, final determination to grant, conditionally or otherwise, or deny any application shall be in the sole discretion of the Commissioner of Banking and Finance or his/her legally authorized representative, and such action shall be final; provided, however, unless specified in other law or regulation, no action shall be required before the expiration of 90 days after the date of filing of the application.

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

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

HISTORY: Original Rule entitled "Sale of Money Orders at Non-Banking Outlets" was filed and effective on June 30, 1965.

Amended: Rule repealed. Filed June 9, 1972; effective June 29, 1972.

Amended: Rule entitled "Notification of Filing, Protest" adopted. Filed July 12, 1974; effective August 1, 1974.

Amended: Filed July 13, 1981; effective August 2, 1981.

Amended: Filed July 24, 1986; effective September 1, 1986, as specified by the Agency.

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

Amended: Rule retitled "Notification of Filing and Protest". F. Jul. 14, 1998; eff. Aug. 3, 1998.

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

Amended: F. July 7, 2021; eff. July 27, 2021.

80-1-1-.05 Public Hearing

(1) Hearings described in this Rule are held for the purpose of giving the public an opportunity to voice protest of charter applications as well as merger and acquisition applications pursuant to Rule [80-6-1-.03](#) and are not intended to conform to hearings under the Georgia Administrative Procedure Act. Such hearing shall be a forum for the presentation of information which the Commissioner shall consider in ruling on an application.

(2) Hearings under this Rule shall be conducted in accordance with the following procedure:

(a) The presiding officer, who shall be appointed by the department in its sole discretion, will open the hearing with an explanation of the hearing procedure, identification of the parties, and statement of the application at issue.

(b) The applicant shall present a brief opening summary of the contents and purpose of the application.

(c) Following the applicant's statement, each person contesting the application shall present his or her data and material, oral or documentary. The contestants may agree, with the approval of the presiding officer, to have one of their number make their presentation.

(d) Following each contestant's presentation, the applicant shall have an opportunity to rebut, clarify or expand upon any information presented by the contestant with oral or documentary material.

(e) The applicant and contestants shall present their information in concise fashion and the presiding officer shall have the authority to limit such presentations if they are repetitive, inappropriate, or irrelevant.

(3) The Department shall have all of the testimony recorded, retain two copies of the transcript and each contestant and the applicant shall receive a copy. The contestants shall be jointly responsible for all the costs of the transcription of the testimony and for the hearing, unless an applicant requests the hearing, in which case the applicant shall bear the cost. No charge shall be assessed for the presiding officer unless the officer is not an employee of the Department, in which case the cost shall be borne as above.

(4) The obtaining and use of witnesses is the responsibility of the parties. All witnesses will appear voluntarily, but any person appearing as a witness may be subject to questioning by the presiding officer. The refusal of a witness to answer questions may be considered by the Department in determining the weight to be accorded the testimony of that witness. Witnesses shall not be sworn.

(5) Formal rules of evidence shall not be applicable to these hearings. Documentary material shall be of a size consistent with ease of handling, transportation, and filing. While large exhibits may be used during the hearing, copies of such exhibits must be provided by the party in reduced size for submission as evidence. Two copies of all such documentary evidence shall be furnished to the Department, and one copy shall be furnished to each contestant and the applicant during the hearing.

(6) The presiding officer or any person designated by the Department shall be the final judge of all procedural questions not governed by this rule. The presiding officer shall have the authority to limit the amount of time available to each party and to impose such other limitations as he or she shall deem reasonable.

(7) In preparation for a final determination on the application, the Department shall review the exhibits and the testimony as recorded, and the presiding officer shall make a recommendation of findings to the Commissioner.

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

AUTHORITY: O.C.G.A. § [7-1-61](#).

HISTORY: Original Rule entitled "Public Hearing" adopted. F. July 12, 1974; eff. Aug. 1, 1974.

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

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

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

Amended: F. July 7, 2021; eff. July 27, 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.

(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, bank holding company, or subsidiary of a bank or bank holding company must register the location with the Department by filing a letter form registration with the Department. Prior to closing a representative office, a bank, bank holding company, or subsidiary of a bank or bank holding company must post notice of the closing at such location at least 30 days in advance of the intended closure. The bank, bank holding company, or subsidiary of a bank or bank holding company 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, bank holding company, or subsidiary of bank or bank holding company 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.

Amended: F. July 7, 2021; eff. July 27, 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; 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.

Amended: F. July 7, 2021; eff. July 27, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-1. BANKS

Subject 80-1-4. INVESTMENT SECURITIES

80-1-4-.01 Permissible Investments and Limitations

Subject to such further restrictions and approvals as its board of directors may set forth in its investment policy, a bank may purchase, sell, and hold securities, as set forth in the following:

(1) Debt Obligations.

(a) Obligations of the United States Government or Agencies of the United States Government.

The following may be held without limitation:

1. Securities issued by the United States government or an agency of the United States government;
2. Securities guaranteed as to principal and interest by the United States government or an agency of the United States government;
3. Securities issued under the U.S. Treasury's Separate Trading of Registered Interest and Principal (STRIP's) program, which are offered in book entry form and which are direct obligations of the U.S. Government, as authorized by Subtitle III, Chapter 31 of Title 31 U.S.C.; and
4. Securities which are pre-refunded, with the redemption proceeds invested in securities issued by the United States Government or an Agency of the United States Government.

(b) Obligations of a State or Territorial Government of the United States or Agencies of State or Territorial Governments.

The following may be held without limitation:

1. General obligations of any state or territorial government of the United States or any agency of such governments;
2. Securities guaranteed as to principal and interest by such state or territorial governments or any agency thereof; and
3. Securities which are pre-refunded, with the redemption proceeds invested in securities issued by state or territorial governments or agencies thereof.

(c) Obligations of other Political Subdivisions.

1. The general obligations of a single obligor domiciled within the United States which is authorized to levy taxes may be held in an amount up to twenty-five (25) percent of a bank's statutory capital base. This percentage limitation shall not apply where the statutory capital base is at least \$10,000,000.
2. Securities which are secured by a pledge or assignment of tax receipts sufficient to pay the principal and interest of such securities as they become due may be held in an amount up to twenty-five (25) percent of the bank's statutory capital base. This percentage limitation shall not apply where the statutory capital base is at least \$10,000,000.

3. Revenue obligations of a political subdivision authorized to establish utility fees, public transportation usage fees or public use fees where such levies or fees are pledged to and are sufficient to pay the principal and interest of the securities as they become due may be held in an amount up to twenty-five (25) percent of a bank's statutory capital base. This percentage limitation shall not apply where the statutory capital base is at least \$10,000,000.

4. In those instances where the repayment of revenue obligations is dependent upon rentals or other fees payable to a political subdivision by a non-governmental unit, such as in the case of industrial revenue bonds, the obligor shall be deemed to be the non-governmental unit responsible for the payment of such rentals or other fees and any guarantor of such payments. Investment in such securities is limited to fifteen (15) percent of the bank's statutory capital base.

5. Securities issued by political subdivisions rated in the four highest rating categories by a nationally recognized rating service may be held in an amount up to fifteen (15) percent of a bank's statutory capital base.

(d) Corporate Debt Securities.

Corporate debt securities may be purchased which are:

1. Rated in the four highest rating categories by a nationally recognized rating service;
2. Readily salable in an established market with reasonable promptness at a price which corresponds to its fair value;
3. Denominated in U.S. dollars; and
4. With respect to banks having a statutory capital of less than \$20,000,000, such securities must mature within 15 years.

A bank's investment in corporate debt securities is limited to fifteen (15) percent of the bank's statutory capital base per obligor. A bank's aggregate investment in corporate debt securities shall not exceed one hundred (100) percent of the bank's statutory capital base.

(e) Debt Securities Taken in Conformity with Lending Policies.

Debt obligations shall not be considered investments within the meaning of this regulation where they:

1. Are taken in conformity with the bank's lending policies;
2. Are included in determining the outstanding credit for purposes of ascertaining compliance with the bank's secured and unsecured loan limitations in Code Section [7-1-285](#); and
3. With respect only to banks having a statutory capital base of less than \$20,000,000, mature within 15 years, and are treated by the bank in all other respects as loans.

The debt obligations that qualify for this exception must be combined with other investment securities or other obligations to the same entity. This aggregation must not exceed the twenty-five (25) percent limitation on obligations to any one person in Code Section [7-1-285](#).

(2) Equity Securities.

Except as allowed by Code Section [7-1-288](#) or in this regulation, a bank may not engage in any transaction with respect to shares of stock or other capital securities of any corporation.

(3) Investment Funds.

A state chartered bank may invest up to fifteen (15) percent of its statutory capital base in securities of, or other interests in, any open-end or closed-end management type investment fund or investment trust which is registered under the Investment Company Act of 1940, subject to the following additional conditions.

(a) The investment portfolio of such investment fund or investment trust shall be limited to those securities in which banks or trust companies are permitted to invest directly under this rule and Title 7 of the Official Code of Georgia; and

(b) The investment fund or trust shall not:

1. Except to the extent authorized in subparagraph (1)(a)3. of this rule, acquire or hold investments in the form of stripped or detached interest obligations;
2. Engage in the purchase or sale of interest rate futures contracts;
3. Purchase securities on margin, make short sales of securities or maintain a short position; or
4. Otherwise engage in futures, forwards or options transactions, except that forward commitments may be entered into for the express purpose of acquiring securities on a when-issued basis.

(c) On an aggregate basis, investments in such funds or trusts shall not exceed:

1. Thirty (30) percent of the bank's statutory capital base per fund/trust family or sponsor; and
2. Sixty (60) percent of the bank's statutory capital base for all funds combined.

(d) An aggregate limitation of one hundred twenty (120) percent of the bank's statutory capital base shall be allowed for all funds combined if the funds or trusts:

1. Are managed so as to maintain the fund or trust shares at a constant net asset value;
2. Are no-load; and
3. Are rated in the highest rating category by a nationally recognized rating service.

(4) Asset-Backed Securities.

A bank may purchase asset-backed securities repayable in both interest and principal which are issued under any of the following:

(a) Governmentally sponsored programs which are fully collateralized by obligations fully guaranteed as to principal and interest by a governmental entity to the same extent as direct obligations of the governmental entity which is the guarantor;

(b) Private programs which are fully collateralized by obligations fully guaranteed as to principal and interest by a governmental entity to the same extent as direct obligations of the governmental entity which is the guarantor; or

(c) Other private programs in amounts which do not exceed fifteen (15) percent of the bank's statutory capital base for each issuer, provided the issue:

1. Is in registered form;
2. Is collateralized by assets which could be owned directly by the bank; and
3. Is rated in the top three rating bands by a recognized national rating service.

(d) Aggregate investment in private program issues by all issuers shall not exceed fifty (50) percent of the bank's statutory capital base unless approved by the department.

(5) Interest-Only ("IO") Securities.

(a) Nothing contained herein shall permit the purchase of investments in the form of stripped or detached IO obligations. An exception to this rule is that securities issued under the U.S. Treasury's Separate Trading of Registered Interest and Principal (STRIP's) program, which are offered in book entry form and which are direct obligations of the U.S. Government, as authorized by Subtitle III, Chapter 31 of Title 31 USC, may be purchased without limitation.

(b) Purchasing or trading any other type of IO securities may receive prior written approval from the department for institutions demonstrating technical expertise and policies sufficient to promote safe and sound use of such investments as part of prudent investment strategies.

(6) Futures, Forwards, Option Contracts and Interest Rate Swaps.

Futures, forwards, option contracts, interest rate swaps, and direct and indirect investments associated with any security which otherwise constitutes a permissible investment under provisions of this rule may be approved in writing by the department for banks demonstrating technical expertise and policies sufficient to promote safe and sound use of such investments as part of prudent investment strategies.

(7) Trust Preferred Securities.

Trust preferred securities, generally, may be defined as issues of cumulative preferred securities, containing characteristics of both debt and equity securities, where the issuer is normally a business trust formed by a corporate issuer. The corporate issuer issues debt to the trust in the form of deeply subordinated debentures. The securities represent undivided beneficial interests in the assets of the issuer trust, and distributions by the issuer trust are guaranteed by the corporate issuer to the extent of available funds of the issuer trust. The trust preferred securities may or may not be rated, but in any event must be scrutinized under the suitability analysis in this rule as if they were a loan being underwritten by the purchasing bank. Trust preferred securities are authorized investments for a state bank subject to the terms and conditions contained in this paragraph 7. A bank's investment in a closed or open-end investment fund, consisting of trust preferred securities, shall be subject to the terms and conditions contained in Rule 80-1-4-.01, paragraph 3. entitled "Investment Funds". A security backed by trust preferred securities shall be deemed an asset-backed security and shall be subject to the terms and conditions contained in Rule 80-1-4-.01, paragraph 4. entitled "Asset-Backed Securities".

(a) The bank's investment in each corporate issuer of trust preferred securities, that is, in each entity that controls an issuer trust (other than in a fiduciary capacity), shall not exceed fifteen (15) percent of the bank's statutory capital base.

(b) The bank's aggregate investment in trust preferred securities shall not exceed the bank's policy limits or one hundred (100) percent of the bank's statutory capital base, whichever is less.

(c) The issuance of the trust preferred securities shall be registered under the Securities Act of 1933, as amended, shall be eligible for resale pursuant to Securities and Exchange Commission Rule 144A, or the securities shall be capable of being sold with reasonable promptness at a price which corresponds to their fair value. As to this requirement, if an issuance is not registered, eligible for resale, or readily marketable, it must meet a suitability analysis test as provided in (e) of this rule;

(d) The securities shall be of investment quality or the credit equivalent of investment quality. Credit equivalency shall be determined by the methods in subparagraph (e) of this rule. Investment quality means that a rating in one of the four highest categories has been assigned to the securities by a nationally recognized rating service and, as such, are not predominantly speculative in nature;

(e) Before the purchase of any trust preferred securities, the investing bank shall perform a due diligence suitability analysis to determine whether the trust preferred securities are suitable for purchase relative to the bank's tolerance for credit risk, asset liability position, sensitivity to market risk, and its liquidity exposure. Such analysis shall include, at a minimum, the following:

1. A complete credit analysis, including cash flow projections, sufficient to determine that the issuer is creditworthy and thus has the ability to meet the debt repayment schedule;
2. A credit underwriting analysis sufficient to determine that the securities meet the credit underwriting criteria set forth by the bank's lending policies;
3. A marketability analysis, sufficient to determine whether or not the securities may be sold with reasonable promptness at a price corresponding to their fair value;
4. The documentation of the suitability analysis shall be in written form and maintained in the bank's files;
5. A periodic update of the suitability analysis shall be performed by the bank at least as frequently as annually during the term of the investment; and

(f) The bank shall obtain and monitor the securities' market values on an ongoing basis.

(g) The bank's written policies and procedures shall adequately address the various risks inherent in these securities including credit risk, price or market risk, interest rate risk, and liquidity risk.

(h) The bank shall notify the department in writing of any investment in trust preferred securities where the issuer is not a bank or bank holding company as defined in Code Section [7-1-605](#).

(8) Tier 2 Subordinated Debt Securities.

Tier 2 subordinated debt securities are subordinated notes issued by banks or bank holding companies, as defined in O.C.G.A. § [7-1-605](#), intended to qualify as Tier 2 capital under federal regulatory capital guidelines. The subordinated debt securities may or may not be rated, but in any event must be scrutinized under the suitability analysis in this rule as if they were a loan being underwritten by the purchasing bank. Tier 2 subordinated debt securities are authorized investments for a state bank subject to the terms and conditions contained in this paragraph. The permissibility of such investment may be determined pursuant to this paragraph or pursuant to any other paragraph or paragraphs of this rule to the extent the terms of such investment conform to such other paragraph or paragraphs.

(a) The bank's investment in each corporate issuer of Tier 2 subordinated debt securities shall not exceed fifteen (15) percent of the bank's statutory capital base. For purposes of determining compliance with this requirement, investments in Tier 2 subordinated debt securities issued by a bank shall be aggregated with securities issued by such bank's holding company.

(b) The bank's aggregate investment in Tier 2 subordinated debt securities shall not exceed the bank's policy limits or one hundred (100) percent of the bank's statutory capital base, whichever is less. For purposes of determining compliance, this aggregation requirement applies to all subordinated debt investments, whether purchased pursuant to this paragraph or any other paragraph of this rule.

(c) The issuance of the Tier 2 subordinated debt securities shall be registered under the Securities Act of 1933, as amended, shall be eligible for resale pursuant to Securities and Exchange Commission Rule 144A, or the securities shall be capable of being sold with reasonable promptness at a price which corresponds to their fair value as determined by the bank following due diligence. In the alternative, the issuance can satisfy the suitability analysis test as provided in subsection (e) of this rule.

(d) The securities shall be of investment quality or the credit equivalent of investment quality. Investment quality means that a rating in one of the four highest categories has been assigned to the securities by a nationally

recognized rating service and, as such, are not predominantly speculative in nature. If the securities are not rated by a nationally recognized rating service, then credit equivalency shall be determined by the methods in subsection (e) of this rule.

(e) Before the purchase of any Tier 2 subordinated debt securities, the investing bank shall perform a due diligence suitability analysis to determine whether the Tier 2 subordinated debt securities are suitable for purchase relative to the bank's tolerance for credit risk, asset liability position, sensitivity to market risk, and its liquidity exposure. Such analysis shall include, at a minimum, the following:

1. A complete credit analysis, including pro forma cash flow analysis, sufficient to determine that the issuer is creditworthy and thus has the ability to meet the debt repayment schedule;
2. A marketability analysis, sufficient to determine whether or not the securities may be sold with reasonable promptness at a price corresponding to their fair value, which analysis may be supported by input from the placement agent for such securities;
3. The documentation of the suitability analysis shall be in written form and maintained in the bank's files; and
4. A periodic update of the suitability analysis shall be performed by the bank at least as frequently as annually during the term of the investment.

(f) The bank shall obtain and monitor the securities' market values on an ongoing basis.

(g) The bank's written policies and procedures shall adequately address the various risks inherent in these securities including credit risk, price or market risk, interest rate risk, and liquidity risk.

(h) Subordinated notes issued by banks or bank holding companies, as defined in Code Section [7-1-605](#), shall not be deemed to be impermissible investments solely by virtue of the fact that the issuer has not obtained regulatory confirmation that proceeds from the issuance of the securities will qualify as Tier 2 capital

(9) All Other Securities.

A bank may invest in such other securities or funds as the department may approve, upon a finding that the securities are marketable under ordinary circumstances, with reasonable promptness at a price which corresponds to their fair value, approval shall be in writing and subject to such limitations as the department may specify. This requirement for departmental approval shall not apply where the statutory capital base of the purchasing bank exceeds \$ 20,000,000. However, in such instances, such securities may be purchased only in an amount which does not exceed fifteen (15) percent of the bank's statutory capital base.

(10) In the event a bank's investment in securities no longer conforms to this rule but conformed when the investment was originally made, the bank shall provide written notification to the Department regarding the nonconforming investment within 30 days of discovering the nonconforming investment or 120 days of the investment becoming nonconforming, whichever event occurs first. In the event a bank wishes to hold the nonconforming investment, the bank must submit a letter form application to the Department describing the efforts the bank will undertake to bring the nonconforming investment into conformity and the anticipated time it will take to bring the investment into conformity. Upon review of the application, the Department may request additional information if it determines such additional information is necessary in order to fully and completely evaluate the application. After completion of its review, the Department shall either approve, conditionally or otherwise, or deny such application in writing.

(11) A bank may sell a nonconforming investment without Department authorization but only if it provides the Department with written notice no later than five (5) business days after the sale.

Cite as Ga. Comp. R. & Regs. R. 80-1-4-.01

AUTHORITY: O.C.G.A. § [7-1-61](#).

HISTORY: Original Rule entitled "All Investment Securities Not Specifically Authorized by Statute" adopted. F. and eff. June 30, 1965.

Amended: F. Aug. 21, 1967; eff. Sept. 10, 1967.

Repealed: New Rule entitled "Other Approved Investment Securities" adopted. F. June 9, 1972; eff. June 29, 1972.

Repealed: New Rule entitled "Investment Securities" adopted. F. Aug. 28, 1975; eff. Sept. 17, 1975.

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

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

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

Amended: F. July 11, 1994; eff. July 31, 1994.

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

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

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

Repealed: New Rule entitled "Permissible Investments and Limitations" adopted. F. Oct. 22, 2001; eff. Nov. 11, 2001.

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

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

Amended: F. July 7, 2021; eff. July 27, 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 adversely 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 Average 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 Average Total Assets as used herein shall be consistent with 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.

Amended: F. July 7, 2021; eff. July 27, 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, which in no event shall be later than twenty (20) days after such calculation, 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.

Amended: F. July 7, 2021; eff. July 27, 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.

(s) Failure to Timely Increase the Amount of the Surety Bond. Any licensee that fails to increase the amount of the applicable surety bond when its average daily outstanding balances for payment instruments or outstanding orders to transmit not yet paid, as required by Rule [80-3-1-.01\(12\)](#), exceed the face amount of the surety bond by ten percent (10%) or more shall be subject to a fine of one thousand dollars (\$1,000) per occurrence and its license will be subject to suspension or revocation.

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.

Amended: F. July 7, 2021; eff. July 27, 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 to a Georgia state chartered institution or a 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) Assessment fees for a Georgia state chartered institution that converts to 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 converts to a federal or national institution or institution chartered by another state after the assessment date, shall pay the full assessment.

(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.

Amended: F. July 7, 2021; eff. July 27, 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

If the amount of Total Assets is:		Assessment will be:		
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, holding companies 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 bank agency or domestic international banking facility 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 8-5-1-.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.

Amended: F. July 7, 2021; eff. July 27, 2021.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-5. FINANCIAL INSTITUTIONS

Subject 80-5-4. REGULATIONS REGARDING THE SALE OF INSURANCE BY FINANCIAL INSTITUTIONS

80-5-4-.02 Notification of Intent to Sell Insurance

A financial institution that wishes to sell insurance must give prior notification to the Office of the Commissioner of Insurance, with a copy of the notice and any subsequent amendments to the Department of Banking and Finance.

Cite as Ga. Comp. R. & Regs. R. 80-5-4-.02

AUTHORITY: O.C.G.A. §§ [7-1-61](#), [7-1-261\(11\)](#).

HISTORY: Original Rule entitled "Notification of Intent To Sell Insurance; Registration of Bank Holding Company" was f. on Feb. 17, 1997; eff. Mar. 10, 1997.

Amended: New title "Notification of Intent to Sell Insurance." F. Dec. 5, 2014; eff. Dec. 25, 2014.

Amended: F. July 7, 2021; eff. July 27, 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.
- (i) In the event that a mortgage broker or lender sponsors a mortgage loan originator purporting to operate under the temporary authority requirements set forth in [12 U.S.C. §5117](#), any advertisement by the mortgage broker or lender that mentions such mortgage loan originator's ability to act as mortgage loan originator in Georgia shall clearly and conspicuously indicate that the individual has temporary authority to operate in Georgia. Any such advertisement must also clearly and conspicuously indicate that the individual is unlicensed, has submitted a license application to the Department, and the Department may grant or deny the license application.

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.

Note: Rule 80-11-1-.02, the incorrect version of the Rule was inadvertently filed (i.e., January 8, 2021; effective January 28, 2021) and appeared on the Rules and Regulations website February 5, 2021 through July 14, 2021. The correct Rule, as originally promulgated and adopted, was updated on the Rules and Regulations website July 15, 2021, with the original filed and effective date, as specified by the Agency. Effective July 15, 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 or does not satisfy the temporary authority to operate requirements set forth in [12 U.S.C. §5117](#) 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 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 NMSLR 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 NMSLR 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.

Note: Rule 80-11-3-.01, the incorrect version of the Rule was inadvertently filed (i.e., January 8, 2021; effective January 28, 2021) and appeared on the Rules and Regulations website February 5, 2021 through July 14, 2021. The correct Rule, as originally promulgated and adopted, was updated on the Rules and Regulations website July 15, 2021, with the original filed and effective date, as specified by the Agency. Effective July 15, 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-.02 Minimum Requirements for Books and Records

Each licensee shall maintain the following books, accounts, and records:

- (a) Copies of all disclosure documents required by Rule Chapter 80-14-5;
- (b) Samples of advertisements as required by Rule [80-14-1-.04](#);
- (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 installment lending business of the licensee or registrant and are not prohibited from being disclosed to the Department by state or federal law;
- (e) Copies of reports required to be prepared and/or submitted by the licensee to any agency, division, or corporate instrumentality of the United States, the State of Georgia or any other state, which reports pertain to the installment lending business of the licensee and are not prohibited from being disclosed to the Department 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 its agent on behalf of individuals employed by the licensee in the installment lending business of the licensee;
- (g) A cash book or daily report for each approved location in which all receipts and disbursements of any amount shall be entered. Separate spaces shall be provided for amounts received or charged as interest, fees, insurance premiums, recording fees and any other receipts or disbursements made by the licensee. All such entries shall be made on the exact date on which they occur. This cash book shall be balanced daily. This paragraph shall not prevent licensees from closing their books in the late afternoon, commonly known as providing for "late drawer" payments, so long as entries of loans and collections are made on their exact date;
- (h) A general ledger which shall be posted at least monthly containing all assets, liabilities, capital, and income and expense accounts. If the licensee has a general ledger reserve account for bad debts, all recoveries or collections on accounts previously charged off shall be credited to this account;
- (i) All bank statements and bank reconciliations records which pertain to the installment lending business of the licensee;
- (j) Reserved;
- (k) Copies of all credit report bills received from all credit reporting agencies;
- (l) 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 of the Department's public records taking place prior to the date of hire;

(m) Copies of all reports required to be filed with the Department or the Nationwide Multistate Licensing System and Registry, 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 such reports; and

(n) Copies of any required notifications required to be made to the Department pursuant to O.C.G.A. § 7-3-31(a) and (b) and supporting documentation.

Cite as Ga. Comp. R. & Regs. R. 80-14-2-.02

AUTHORITY: O.C.G.A. §§ [7-3-30](#), [7-3-51](#).

HISTORY: Original Rule entitled "Minimum Requirements for Books and Records" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

Amended: F. July 7, 2021; eff. July 27, 2021.

Department 180. STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Chapter 180-11. CONTINUING PROFESSIONAL COMPETENCY

180-11-.07 Exemptions

A registrant is exempt from the professional development education requirements under any of the following circumstances:

- (1) Registrants licensed by way of examination or comity, shall be exempt for their first renewal period.
- (2) A professional engineer serving on temporary duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days shall be exempt from obtaining 15 of the professional development hours required during that biennial period in which the majority of the days of duty fall. Likewise, a land surveyor shall be exempt from obtaining 7.5 professional development hours during that biennial period.
- (3) Registrants experiencing physical disability, illness, or other extenuating circumstances as approved by the Board may be exempt. Supporting documentation must be furnished to the Board.
- (4) Registrants over the age of 65 who have applied for an inactive license, who list their occupation as "Retired" or "Inactive" on the Board-approved renewal form, and who further certify that they are no longer receiving any remuneration from providing professional engineering or land surveying services shall be exempt from professional development hours. In the event such a person elects to return to active practice of professional engineering or land surveying, professional development hours must be earned as described in "[180-11-.08 Reinstatement](#)" before returning to active practice.
- (5) Individuals who qualify for exemption by way of paragraph (4) above may continue to use the words Professional Engineer (or P.E.), or Land Surveyor (or L.S.) as appropriate, after their names as long as they continue to fall under the restrictions specified and are not actively practicing engineering or land surveying.
- (6) Registrants over the age of 65 who are engaged in the active practice of their profession and who have held a valid Georgia license for the previous 25 consecutive years shall be exempt from professional development requirements.

Cite as Ga. Comp. R. & Regs. R. 180-11-.07

AUTHORITY: O.C.G.A. §§ [15-6-67](#), [43-15-4\(a\)](#), [43-15-6](#).

HISTORY: Original Rule entitled "Exemptions" adopted. F. Jul. 8, 1996; eff. Jul. 28, 1996.

Amended: F. Feb. 11, 2000; eff. Mar. 2, 2000.

Amended: F. July 7, 2021; eff. July 27, 2021.

Department 464. GEORGIA PEACE OFFICER STANDARDS AND TRAINING COUNCIL

Chapter 464-3. OFFICER CERTIFICATION

464-3-.13 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 464-3-.13

AUTHORITY: O.C.G.A. § [35-8-7\(23\)](#).

HISTORY: Original Rule entitled "Officer Code of Conduct Agreement" adopted. F. Sep. 21, 2020; eff. Oct. 11, 2020.

Repealed: F. July 2, 2021; eff. July 22, 2021.

Department 464. GEORGIA PEACE OFFICER STANDARDS AND TRAINING COUNCIL

Chapter 464-6. INSTRUCTOR CERTIFICATION

464-6-.05 Specialized Instructor Certification

Any persons serving as an instructor in the following subjects must be certified in accordance with these Rules.

- (a) Firearms.
- (b) Defensive Tactics.
- (c) Driver Training.
- (d) Speed Detection.
- (e) Hazardous Materials
- (f) Emergency Medical.
- (g) Master Resiliency Instructor.
- (h) Resiliency Instructor.

Cite as Ga. Comp. R. & Regs. R. 464-6-.05

AUTHORITY: O.C.G.A. § [35-8-7\(23\)](#).

HISTORY: Original Rule entitled "Prior Employed Applicants" adopted. F. Feb. 12, 1971; eff. Mar. 4, 1971.

Repealed: F. Sept. 2, 1975; eff. Sept. 22, 1975.

Amended: Rule entitled "Schools Required To Be Certified" adopted. F. July 7, 1978; eff. July 27, 1978.

Amended: Rule repealed and a new Rule of the same title adopted. F. Mar. 13, 1985; eff. Apr. 2, 1985.

Amended: Rule repealed and a new Rule entitled "Specialized Instructor Certification" adopted. F. Mar. 2, 1988; eff. Mar. 22, 1988.

Amended: F. Sept. 7, 1989; eff. Sept. 27, 1989.

Amended: F. Jan. 11, 1991; eff. Jan. 31, 1991.

Repealed: New Rule, same title adopted. F. Mar. 19, 1998; eff. Apr. 8, 1998.

Amended: F. Apr. 9, 2007; eff. Apr. 29, 2007.

Amended: F. July 2, 2021; eff. July 22, 2021.

464-6-.08 Guest Instructor Recognition. Amended

Because of the inherent nature of certain professions or particular skill levels achieved, certain individuals may be requested to instruct. Such persons shall be designated as guest instructors and shall be recognized by Council as such. Guest Instructor recognition shall be granted only by the written request of the academy director or a professional criminal justice association recognized by the Georgia Peace Officer Standards and Training Council. No Georgia certified officer shall be recognized as a guest instructor unless they have been awarded a "terminal degree" in the area of expertise that they are requesting to instruct.

A "terminal degree" is defined as the highest degree available in any given academic discipline.

Common examples of terminal degrees are Juris Doctorate (JD), Doctor of Philosophy (PhD) and Doctor of Medicine (MD).

POST shall have the sole determination in deeming an individual's terminal degree as sufficient to instruct in any given subject regardless of whether they hold a peace officer certification in the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 464-6-.08

AUTHORITY: O.C.G.A. § [35-8-7\(23\)](#).

HISTORY: Original Rule entitled "School (Academy) Requirements" was filed on July 7, 1978; effective July 27, 1978.

Amended: Rule repealed and a new Rule of the same title adopted. Filed March 13, 1985; effective April 2, 1985.

Amended: Rule repealed and a new Rule entitled "Guest and Professional Instructor Recognition" adopted. Filed March 2, 1988; effective March 22, 1988.

Repealed: New Rule entitled "Guest Instructor Recognition" adopted. F. Mar. 19, 1998; eff. Apr. 8, 1998.

Amended: New title "Guest Instructor Recognition. Amended." F. Feb. 2, 2021; eff. Feb. 22, 2021.

Amended: F. July 2, 2021; eff. July 22, 2021.

Department 464. GEORGIA PEACE OFFICER STANDARDS AND TRAINING COUNCIL

Chapter 464-13. SPECIALTY AND VOLUNTARY CERTIFICATIONS

464-13-.21 School Resource Officer (SRO) Certification Requirements

Each person applying for School Resource Officer Certification must:

- (1) possess a P.O.S.T. certification as a Peace Officer;
- (2) be at least twenty-one (21) years of age;
- (3) be employed as a SRO or have a job offer pending as a SRO;
- (4) successfully complete the required core courses as prescribed by Council.

Cite as Ga. Comp. R. & Regs. R. 464-13-.21

AUTHORITY: O.C.G.A. § [35-8-7\(23\)](#).

HISTORY: Original Rule entitled "School Resource Officer (SRO) Certification Requirements" adopted. F. July 2, 2021; eff. July 22, 2021.

464-13-.22 Peer Counselor Certification Requirements

Each person applying for Peer Counselor Certification must:

- (1) possess a P.O.S.T. certification as a Peace Officer, Corrections Officer, Juvenile Correctional Officer, Jailer, or Communications Officer;
- (2) complete the required core courses as prescribed by Council;
- (3) complete the refresher course as required by Council, prior to the recertification date.

Cite as Ga. Comp. R. & Regs. R. 464-13-.22

AUTHORITY: O.C.G.A. § [35-8-7\(23\)](#).

HISTORY: Original Rule entitled "Peer Counselor Certification Requirements" adopted. F. July 2, 2021; eff. July 22, 2021.

464-13-.23 Crime Analyst Certification Requirements

Each person applying for Crime Analyst Certification must:

- (1) Be at least 18 years of age;
- (2) Be a citizen of the United States;
- (3) Have a high school diploma or its recognized equivalent;

(4) Not have been convicted by any state or by the federal government of any crime the punishment for which could have been imprisonment in the federal or state prison or institution nor have been convicted of sufficient misdemeanors to establish a pattern of disregard for the law, provided that, for the purposes of this paragraph, violations of traffic laws and other offenses involving the operation of motor vehicles when the applicant has received a pardon shall not be considered;

(5) Be fingerprinted for the purpose of conducting a fingerprint-based search at the Georgia Bureau of Investigation and the Federal Bureau of Investigation to determine the existence of any criminal record.

(6) Possess good moral character as determined by investigation under procedure established by the council and fully cooperate during the course of such investigation;

(7) Be a full-time employee of a state or local law enforcement department within the State of Georgia.

(8) Be in good standing with their departments, and with the Peace Officer Standards and Training Council (P.O.S.T.) if applicable.

(9) Be employed as a criminal intelligence analyst, performing both intelligence analysis and crime analysis; or as a crime analyst whose duties include intelligence analysis; or as a criminal investigator whose duties include performing intelligence analysis for their department on a routine basis.

(10) Successfully complete the core courses as prescribed by Council.

Cite as Ga. Comp. R. & Regs. R. 464-13-.23

AUTHORITY: O.C.G.A. § [35-8-7\(23\)](#).

HISTORY: Original Rule entitled "Crime Analyst Certification Requirement" adopted. F. July 2, 2021; eff. July 22, 2021.

Department 478. RULES OF THE STATE PERSONNEL BOARD

Chapter 478-1. RULES OF THE STATE PERSONNEL BOARD

478-1-.01 Organization of the Board

(1) Establishment and Membership of the Board:

Article IV, Section III, Paragraph I of the Constitution of the State of Georgia establishes a State Personnel Board. The Board provides direction by which the State's personnel policies are administered, and may be vested with such additional powers and duties as provided by law.

The Board consists of five members appointed by the Governor for five-year terms, subject to confirmation by the Senate. Members shall serve until their successors are appointed and qualified. Vacancies arising from death or resignation shall remain vacant until such time that a successor is appointed and qualified. A member of the State Personnel Board may not be employed in any other capacity in state government.

(2) Applicability:

Rules adopted by the State Personnel Board and approved by the Governor have the force and effect of law and apply to departments and agencies as defined in Section [45-20-2](#) of the Georgia Code.

(3) Organization of the Board:

(a) The Board shall, at the last regular meeting of each calendar year or at such time as the chair may determine, elect one member to act as chair for a term of one year, or until a successor is duly elected. At the same meeting, the Board shall elect one of its members to act as vice-chair for the same term and to act for the chair in his or her absence. If the office of chair or vice-chair is vacated because of death or resignation, or in any other manner, the Board, at its next regular meeting, shall elect a successor, who shall serve for the unexpired term.

(b) At the last regular meeting of each calendar year or at such time as the chair may determine, the Board shall establish a schedule of the dates and meeting times for the regular Board meetings for the following calendar year. The Commissioner will publish this schedule and make it available to any interested party upon request. Regular meetings of the Board shall normally be held in the offices of the Department of Administrative Services; however, the chair may cancel or postpone, or change the time, date, and place of any meeting, when deemed necessary. Board members, the Commissioner, appointing authorities, and other appropriate parties shall be notified of the meetings as required by law, at least ten (10) days prior to the meetings.

(c) Special meetings of the Board may be called by any member of the Board or by the Commissioner upon giving reasonable advance notice of the meeting and subjects expected to be considered at the meeting, as required by Section [50-14-1](#) of the Georgia Code. Notice of such meetings shall be given to each member of the Board, the Commissioner, and other parties as required by state law.

(d) Except as otherwise provided by law, all regular meetings of the Board shall be open to the public. The Board may meet in closed session when discussing or deliberating upon the appointment, employment, hiring, disciplinary action, dismissal, or performance of a public officer or employee.

(e) The Board shall adopt procedures for the conduct of its activities. Meetings of the Board may be informal, subject to such rules of order as may be promulgated by the chair of the Board, and may be conducted by teleconference, provided that such meeting is conducted as required by Code Section [50-14-1](#).

(f) Three members shall constitute a quorum. Only the votes of a majority of the members present shall be necessary for the transaction of any business or discharge of any duties of the State Personnel Board, provided there is a quorum.

(g) The minutes of each Board meeting shall include the time and place of the meeting, names of the board members present, all official acts of the Board, the votes of each member except when the acts are unanimous, and, when requested, a board member's approval or dissent, with the member's reasons. The Commissioner shall cause the minutes to be transcribed and presented for approval or amendment at the next regular meeting. The minutes or a true copy thereof, certified by a majority of the Board, shall be open to inspection by the appointing authorities and the public.

(h) All decisions, opinions, recommendations and other pertinent matters resulting from a hearing or investigation conducted by the Board, including the votes of each member except when the acts are unanimous, shall be recorded and filed as a part of its proceedings with the minutes.

(i) The Commissioner, as Executive Secretary to the Board, shall have the right to attend or be represented at, and to participate in, all meetings of the Board, but shall be without voting power.

(4) Functions, Powers, and Duties of the Board; Compensation of Members:

(a) The Board shall hold regular meetings at such times as the Chair may determine and may hold additional meetings as may be required for the proper discharge of its duties.

It shall be the specific duty and function of the State Personnel Board:

1. To represent the public interest in the improvement of personnel administration in the state departments covered by the Rules of the State Personnel Board.
2. At public hearings, to adopt and amend policies, rules, and regulations effectuating state personnel administration, subject to approval of the Governor.
3. To review adverse personnel actions for employees of the classified service where the Board deems a review appropriate. All appeals determinations of the Board shall be written and documented as to findings of fact, bases for decisions, and prescribed remedies.
4. To assure the administration of state and federal laws relating to state personnel administration.
5. To promote public understanding of the purposes, policies, and practices of state personnel administration and to advise and assist state departments in securing the interest of institutions of learning and of civic, professional, and other organizations in the improvement of personnel standards.
6. To adopt and promulgate rules and regulations for the administration of the program for certification of medical and physical fitness of state employees and to perform such other actions as may be required to administer the program.
7. To adopt and promulgate rules and regulations for administration of meritorious award programs, incentive compensation plans, goal-based plans, and the employee suggestion program and to perform such other actions as may be required to administer the programs.
8. To perform such other actions as may be required by law.

(b) Members of the Board shall receive no salary but shall receive the same expense allowance per day as that received by a member of the General Assembly for each day such member is attending meetings or performing official business for the Board, plus reimbursement for actual transportation costs while traveling by public carrier or the legal mileage rate for the use of a personal automobile in connection with such attendance or official business.

Cite as Ga. Comp. R. & Regs. R. 478-1-.01

AUTHORITY: O.C.G.A. §§ [45-20-2](#), [45-20-3](#), [45-20-3.1](#), [45-20-4](#).

HISTORY: Original Rule entitled "Definitions" adopted. F. July 31, 1985; eff. July 1, 1985, as specified by the Board.

Amended: F. Jan. 9, 1986; eff. Dec. 31, 1985, as specified by the Board.

Amended: F. Jan. 15, 1987; eff. Dec. 29, 1986, as specified by the Board.

Amended: F. Jan. 22, 1988; eff. Nov. 12, 1987, as specified by the Board.

Amended: F. June 9, 1989; eff. Nov. 11, 1988, as specified by the Board.

Amended: F. Nov. 8, 1989; eff. June 28, 1989, as specified by the Board.

Amended: F. June 20, 1990; eff. July 1, 1990, as specified by the Board.

Amended: F. Aug. 10, 1993; eff. July 30, 1993, as specified by the Board.

Amended: F. June 30, 1994; eff. July 1, 1994, as specified by the Board.

Amended: F. July 20, 1994; eff. July 7, 1994, as specified by the Board.

Amended: F. July 11, 1995; eff. June 30, 1995, as specified by the Board.

Amended: F. Dec. 31, 1996; eff. Sept. 20, 1996, as specified by the Board.

Amended: F. Dec. 31, 1996; eff. Oct. 1, 1996, as specified by the Board.

Amended: F. Dec. 31, 1996; eff. Nov. 18, 1996, as specified by the Board.

Amended: F. Nov. 4, 1997; eff. Oct. 27, 1997, as specified by the Board.

Amended: F. July 15, 1999; eff. Oct. 1, 1999, as specified by the Board.

Repealed: Rule reserved. F. Dec. 23, 2008; eff. Dec. 17, 2008, as specified by the Board.

Repealed: New Rule entitled "Organization of the Board" adopted. F. July 30, 2010; eff. July 16, 2010, as specified by the Board.

Amended: F. Dec. 30, 2013; eff. Sep. 25, 2013, as specified by the Board.

Amended: F. July 15, 2021; eff. June 22, 2021, as specified by the Board.

478-1-.16 Absence from Work

(1) Introduction:

The State recognizes value in providing a reasonable amount of time off to assist employees with balancing work and personal needs. To be a responsible steward of public funds, however, the State must account for any pay provided to employees for time not worked. Paid time off must be charged to appropriate paid leave, accumulated compensatory time, paid holiday time, or suspension with pay.

This Rule defines the available types of paid and unpaid leave and the eligibility for each. It further provides a framework for leave, compensatory time, and holiday administration. Information about paid suspension is available in Rule [478-1-.15](#), Changes to Employment Status, and more detailed information about compensatory time can be found in statewide policy #7 - Rules, Regulations, and Procedures Governing Working Hours, the Payment of

Overtime, and the Granting of Compensatory Time, jointly issued by the Governor's Office of Planning and Budget and the Department of Administrative Services.

(2) Applicability:

(a) The policies and procedures described in this Rule apply to all agencies of the Executive branch, excluding the Board of Regents of the University System of Georgia.

(b) In accordance with State law (O.C.G.A. § [45-20-32](#)), Section (18) of this Rule, Education Support Leave, is applicable to all branches and entities of State government.

(3) Definitions:

For the purposes of this Rule, the following terms and definitions apply in addition to those in Rule [478-1-.02](#), Terms and Definitions:

(a) "Administrative Leave" means paid time off for specified reasons defined in State law. This paid time off is not charged to accrued leave, and the duration is defined in applicable statute.

(b) "Immediate family" means the employee's spouse, child, parent, grandparent, grandchild, brother, and sister, including active step and in-law relationships. Immediate family also includes any other person who resides in the employee's household and is recognized by law as a dependent of the employee.

(c) "Seasonal activity" means work during periods of significantly increased demand, which are of a regular and recurring nature.

(d) "Workday" means a day an employee is regularly scheduled to work.

(4) General Leave Administration Provisions:

(a) Each agency should establish procedures for employees to request and receive approval for absence from work.

(b) Employees are expected to properly request and receive approval for absence from work. Failure to follow the employer's procedures may result in denial of the request and/or other employment action deemed appropriate by the agency, up to and including termination of employment.

(c) If a request for absence is denied, the employee is expected to work, as scheduled. Failure to do so might result in leave without pay and/or other employment action deemed appropriate by the agency, up to and including termination of employment.

(d) The agency may require an employee on leave with an uncertain end date to provide periodic reports during the leave regarding the employee's status and intent to return to work.

(e) An employee absent on official agency business is not considered to be on leave.

(f) An employee is expected to return to work as scheduled at the expiration of approved absence. If an extension is desired, the employee must request it in writing from her/his supervisor prior to the leave expiration or adhere to other agency procedures for timely requesting an extension.

(g) Failure to obtain approval for additional time off beyond the expiration of an approved absence may result in separation from employment or other employment action deemed appropriate by the agency.

(h) Each agency may, as a condition of return, require an employee who is absent from work because of illness or injury to supply an appropriate medical release or certification that the employee is able to return to work. The release or certification must explain the extent to which the employee is able to perform the essential functions of her/his position, with or without reasonable accommodation.

1. Each agency must comply with the requirements of the Americans with Disabilities Act, as amended, including providing reasonable accommodation to its qualified employees with disabilities.

2. A limitation exists for employees returning to work from using intermittent or reduced schedule Family and Medical Leave. An agency may require fitness-for-duty certification only if the agency reasonably believes the return could pose significant risk of harm to the employee or others. Such certification may be required no more often than every 30 calendar days.

3. If the medical certification does not release the employee to perform essential functions, and there is no available reasonable accommodation, as defined in the Americans with Disabilities Act, as amended, or if the employee fails to provide the required release, the agency may take the employment action it deems appropriate, up to and including termination of employment.

(i) Prior to engaging in other employment, including self-employment, while on leave employees must comply with the notice and other requirements set forth in Rule [478-1-.07](#), Outside Employment.

(j) Misrepresenting reasons for requesting or continuing an absence may result in disciplinary action, up to and including termination of employment.

(k) Exceptions to this Rule will occur if necessary to comply with applicable laws.

(5) Types of Paid Leave:

(a) The State's paid leave program offers a combination of accrued, personal, and administrative leave for eligible employees.

(b) The following employees are not eligible for any paid leave benefits:

1. All temporary employees except for those eligible to receive Paid Parental Leave under Section (26) of this Rule,
2. All hourly employees except for those eligible to receive Paid Parental Leave under Section (26) of this Rule, and
3. Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia (ERS) while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

Eligibility for other employees is defined in the applicable leave section within this Rule.

(b) Accrued Leave:

1. Accrued leave includes annual leave and sick leave. Both annual and sick leave are earned based on time in pay status and automatically accrue to eligible employees. (See Section (6) Annual Leave and Section (7) Sick Leave of this Rule).

2. Each agency, by written policy, may set a minimum period of annual and/or sick leave to be charged for any use which is only a fraction of that period. The minimum leave period cannot be greater than 15 minutes.

3. Dual Eligibility Relating to Leave Accrual:

(i) An employee who is simultaneously employed in two different agencies and is entitled to earn leave under each position s/he holds will independently accrue leave in accordance with each agency's policies.

(ii) If employment is terminated with one agency but not the other, all leave accruals will be combined and available in the remaining position, provided both agencies use the same leave accrual program. An exception applies when

one of the agencies is a Community Service Board, County Board of Health, or Board of Health Community Operated Program. Leave accrued in these organizations cannot be transferred to an Executive Branch agency.

(iii) If the leave programs differ or if leave cannot otherwise transfer, the terminating agency will payout/divest the employee's leave as provided in the Annual, Sick, and Personal Leave sections of this Rule.

(d) Administrative Leave:

State law provides paid administrative leave to eligible employees for certain activities. Such leave is in addition to, and not charged against, an employee's accrued leave. Administrative leave is available for/during the following:

1. Absence Due to Emergency Office Closures (See Section (12) of this Rule.),
2. Blood Donation Leave (See Section (13) of this Rule.),
3. Bone Marrow Donation Leave (See Section (14) of this Rule.),
4. Organ Donation Leave (See Section (15) of this Rule.),
5. Court Leave (See Section (16) of this Rule.),
6. Employee Voting Leave (See Section (17) of this Rule.),
7. Education Support Leave (See Section (18) of this Rule.),
8. Disaster Volunteer Leave (See Section (19) of this Rule.),
9. Line-of-Duty Injury Leave, also known as Special Injury Leave (See Section (20) of this Rule.),
10. Leave for Contracting TB or infectious Hepatitis on the job (See Section (21) of this Rule.),
11. Military Leave (See Rule [478-1-.19](#), Military Leave.), and
12. Paid Parental Leave (See Section (26) of this Rule).

(e) Limitation on Concurrent Use of Paid Leave and Wage Substitutes:

An employee is not allowed to use any type of paid leave, except in special situations discussed in Section (20) of this Rule, for any time that the employee receives any form of State of Georgia-funded wage substitute, including but not limited to Workers' Compensation.

(6) Annual Leave:

(a) Eligibility:

1. Each agency provides paid annual leave for non-temporary salaried employees who are regularly scheduled to work 20 or more hours a week.
2. The Georgia Industries for the Blind provides paid annual leave for non-temporary manufacturing employees who are regularly scheduled to work 20 hours or more a week.
3. The following employees are not eligible to accrue annual leave:
 - (i) All temporary employees,
 - (ii) All hourly employees, and

(iii) Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(b) Accrual:

1. The accrual process begins on the first date of employment. Annual leave is credited to eligible employees at the end of each pay period.
2. Annual leave accrues on a graduated scale based on an employee's length of continuous, unbroken State service in a position entitled to accrue leave under this Rule.
3. Full-time employees scheduled for at least 40 hours per workweek accrue annual leave at the following rates:

Complete Months of Continuous Service	Paid Semi-Monthly	Paid Monthly
0 through 60	5 hours per pay period	10 hours per pay period
60+ through 120	6 hours per pay period	12 hours per pay period
120+	7 hours per pay period	14 hours per pay period

(i) Employees paid semi-monthly must be in pay status for at least 40 hours during the pay period to accrue annual leave at the end of that pay period.

(ii) Employees paid on a monthly basis must be in pay status for at least 80 hours during the pay period to accrue annual leave at the end of that pay period. An agency that compensates employees on a monthly basis may choose to administer annual leave as if those employees were compensated on a semi-monthly basis.

4. Part-time employees scheduled to work at least 20 (but fewer than 40) hours per workweek accrue annual leave as outlined for full-time employees, but at a prorated rate.

(i) The prorated rate is determined by dividing the employee's standard weekly work hours by 40. For example, a part-time employee scheduled for 20 hours per workweek would accrue annual leave at 50% of the rate a full-time employee accrues annual leave ($20 \text{ hours} \div 40 = .5$ or 50%). A new 20-hour employee would earn 2.5 hours of annual leave semi-monthly or 5 hours monthly.

(ii) The minimum periods of time in pay status required for annual leave accrual noted in Section (6)(b)3(i)-(ii), above, are similarly prorated for part-time employees. A 20-hour employee would need to be in pay status at least 20 hours during a semi-monthly pay period, or 40 hours during a monthly pay period, in order to accrue leave at the end of that pay period.

(c) Use and Limitations of Annual Leave:

1. Annual leave may be used for vacation or other personal reasons.
2. Employees may not take annual leave before it is actually earned.
3. An agency may by written policy require its employees to use compensatory time and/or deferred holiday time before using annual leave.
4. An agency may by written policy require its employees to use available sick leave before using annual leave when the absence involves medical reasons that would qualify for sick leave.
5. In scheduling annual leave, agencies should try to accommodate employee preferences. However, employees who request annual leave during busy periods or at times when coworkers have already requested leave might need to

make alternate plans. Supervisors must weigh the agency's business needs and the timeliness of the requests in approving annual leave.

(d) Carryover and Forfeiture of Annual Leave:

1. An employee may accrue up to 360 hours of annual leave. Any leave balance in excess of 360 is forfeited at the end of each month.

2. Annual leave that is forfeited may be restored as sick leave by the agency if an employee exhausts all paid leave and compensatory time and must be absent because of a personal or immediate family medical condition. The restoration of leave is limited to:

(i) The amount required by the circumstances of the medical condition; and

(ii) The leave forfeited during the current period of employment. Forfeited leave accrued prior to a break in service cannot be restored except as outlined in Section (7)(h) of this Rule.

(e) Annual Leave Payout:

1. Employees are paid for their accrued and unused annual leave, which has not been forfeited, upon separation from State employment for at least one full workday for any reason.

(i) Annual leave payout is limited to a maximum of 360 hours.

(ii) Annual leave is not paid out when an employee transfers between State agencies with no break in service or when annual leave will otherwise transfer to the new employer. (See Section (10) of this Rule.)

2. To calculate annual leave payout for a full-time employee, the annual base pay last received by the employee is divided by 2,080 hours to determine the value of each hour of leave. (Annual base pay for a part-time employee must first be converted to the equivalent full-time salary for purposes of this calculation.) The hourly rate is then multiplied by the number of hours to be paid. Decimal fractions of an hour will be rounded to the next highest hundredth of an hour.

3. Once a separation date has been determined, the pay status of an employee cannot be extended for the purpose of granting a holiday or unanticipated non-workday occurring after the last day in pay status. Once an employee notifies the agency of the intent to terminate employment, the employee cannot be continued on the payroll on leave with pay status for the purpose of increasing the current salary, the rate of leave accrual, or the rate at which accrued leave would be paid.

4. An employee who is taking an approved leave of absence without pay of 30 calendar days or more may request and receive an annual leave payout for all accrued annual leave excluding forfeited leave, up to a maximum of 360 hours. The lump sum payment will be calculated as outlined in (6)(e)2, above.

5. Upon transfer into a position that is not entitled to earn annual leave (i.e., temporary position, hourly position for which the employee is paid only for the time worked, or part-time position scheduled for fewer than 20 hours per week) an employee will be paid for accrued and unused annual leave, up to a maximum of 360 hours.

6. Each agency has discretion to determine whether it will pay out accrued annual leave for its active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia when they become ineligible for paid leave benefits upon reinstatement of retirement annuity payments at the beginning of each calendar year. If any agency chooses not to payout the accrued annual leave, the leave balance will remain credited to the rehired retiree who can then use the leave upon regaining eligibility for paid leave benefits.

(7) Sick Leave:

(a) Eligibility:

1. Each agency provides paid sick leave for non-temporary salaried employees who are regularly scheduled to work 20 or more hours a week.

2. The Georgia Industries for the Blind provides paid sick leave for non-temporary manufacturing employees who are regularly scheduled to work 20 or more hours a week.

3. The following employees are not eligible to accrue sick leave:

(i) All temporary employees,

(ii) All hourly employees, and

(iii) Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(b) Accrual:

1. The accrual process begins on the first date of employment. Sick leave is credited to eligible employees at the end of each pay period.

2. Full-time employees paid on a semi-monthly basis will accrue five (5) hours of sick leave at the end of each pay period, provided the employee is in pay status for at least 40 hours during the pay period.

3. Full-time employees paid on a monthly basis will accrue 10 hours of sick leave at the end of each pay period, provided the employee is in pay status for at least 80 hours during the pay period. An agency that compensates employees on a monthly basis may choose to administer sick leave as if those employees were compensated on a semi-monthly basis.

4. Part-time employees scheduled to work at least 20 (but fewer than 40) hours per workweek accrue sick leave as outlined for full-time employees, but at a prorated rate.

(i) The prorated rate is determined by dividing the employee's standard weekly work hours by 40. For example, a part-time employee scheduled for 20 hours per workweek would accrue sick leave at 50% of the rate a full-time employee accrues sick leave ($20 \text{ hours} \div 40 = .5$ or 50%). A 20-hour employee would earn 2.5 hours of sick leave semi-monthly or five (5) hours monthly.

(ii) The minimum periods of time in pay status required for sick leave accrual noted in Section (7)(b)2-3, above, are similarly prorated for part-time employees. A 20-hour employee would need to be in pay status at least 20 hours during a semi-monthly pay period or 40 hours during a monthly pay period in order to accrue leave at the end of that pay period.

(c) Use and Limitations of Sick Leave:

1. Provided the employee adheres to the procedures for approval of leave, an employee may use accrued sick leave for any absence due to:

(i) Personal illness, injury, or disability;

(ii) Adoption of a child by the employee when the employee's presence is required for health-related reasons;

(iii) Dental or medical care;

(iv) Illness, injury, or disability in the employee's immediate family which requires the employee's presence; or,

(v) Death in the employee's immediate family which requires the employee's presence; however, sick leave used for this purpose shall be limited to five (5) workdays or the equivalent of a workweek.

2. Sick leave may also be used to allow an employee paid time off from work because s/he has been exposed to a contagious disease and may reasonably expose others and endanger their health by being present at work.

3. Employees may not use sick leave before it is actually earned.

4. An agency may by written policy require its employees to use compensatory time and/or deferred holiday time before using sick leave.

5. An employee may be required to furnish evidence to support the use of sick leave if the employee uses 17 or more hours of sick leave in a 30 calendar day period or has demonstrated excessive or abusive use of sick leave.

6. Employees using sick leave during a period of Family and Medical Leave (FMLA) are also subject to the medical certification provisions associated with FMLA. (See Rule [478-1-.23](#), Family and Medical Leave.)

(d) Excessive or Abusive Use of Sick Leave:

Excessive or abusive use of sick leave is defined as a pattern of intermittent, short-term usage that includes, but is not limited to, the following:

1. Frequent use of sick leave in conjunction with holidays, scheduled off days, weekends, or paydays;
2. Frequent use of sick leave when scheduled for undesirable temporary shifts or assignments, or during periods of peak workload;
3. A request for sick leave for an absence for which other paid leave has previously been denied;
4. Frequent occurrences of illness during the workday;
5. Peculiar and increasingly improbable excuses;
6. Repetitive use of fewer than 17 hours of sick leave in 30-day periods; or,
7. Prior written notification of failure to adhere to procedures for approval of leave, inappropriate attendance, or inappropriate use of leave (e.g., written warning, active attendance plan, etc.).

(e) Illness during Annual Leave:

If an employee is ill for three (3) workdays or more during a period of annual leave, the period of illness may be charged to sick leave if the employee provides satisfactory written evidence supporting the illness during annual leave. A request for substitution of sick leave for annual leave must be made to the agency within two (2) weeks after the employee has returned to duty. No substitution will be allowed for illness that does not last for three (3) or more workdays.

(f) Exhaustion of Sick Leave:

If an absence because of illness, injury, or disability extends beyond available sick leave, the absence may be charged to available annual leave, personal leave, compensatory time, or deferred holiday time, unless the employee applies for, and the agency approves, a leave of absence without pay. Leave donations may be available to an employee who must be absent for an extended period of time after exhausting all paid leave and compensatory time. (See Rule [478-1-.17](#), Leave Donation, for program details.)

(g) Carryover and Forfeiture of Sick Leave:

1. An employee may accrue up to 720 hours of sick leave. Any leave balance in excess of 720 is forfeited at the end of each month.

2. Sick leave that is forfeited may be restored by the agency if an employee exhausts all paid leave and compensatory time and must be absent because of a personal or immediate family medical condition. The restoration of leave is limited to:

(i) The amount required by the circumstances of the medical condition; and,

(ii) The leave forfeited during the current period of employment. Forfeited leave accrued prior to a break in service cannot be restored except as outlined in Section (7)(h) of this Rule.

(h) Divestment and Restoration of Sick Leave:

1. Upon a break in State service (i.e., separation from State employment for at least one full workday), an employee's accrued sick leave is divested and not paid out. (See Section (10)(e) of this Rule for an exception in such case as when a Community Service Board, County Board of Health, or Board of Health Community Operated Program agrees to accept an employee's leave upon transfer without a break in service.)

2. An employee's accrued sick leave is divested and not paid when an employee transfers into a position that is not entitled to earn sick leave (i.e., temporary position, hourly position for which the employee is paid only for the time worked, or part-time position scheduled for fewer than 20 hours per week).

3. Each agency has discretion to determine whether it will divest accrued sick leave for its active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia when they become ineligible for paid leave benefits upon reinstatement of retirement annuity payments at the beginning of each calendar year. If an agency chooses not to divest the accrued sick leave, the leave balance will remain credited to the rehired retiree who can then use the leave upon regaining eligibility for paid leave benefits.

4. Employees who return to State employment on or after July 1, 2003, and remain employed for a period of two (2) consecutive years in a position entitled to accrue leave in accordance with this Rule, are eligible to regain sick leave divested when their most recent previous period of State service ended.

5. Divested sick leave includes any sick leave that was available for use at the time of the employee's last separation from State service. It does not include any sick leave forfeited prior to the employee's last separation.

6. The maximum amount of divested sick leave the employee may regain is 720 hours. Divested leave will only be restored to the extent that the restored leave and current unused sick leave total 720 hours. Any remaining balance of divested sick leave will be credited to the employee's current forfeited leave balance.

7. If a Community Service Board, County Board of Health, or Board of Health Community Operated Program accepts leave upon transfer from the State, then sick leave is not considered divested at the time the employee leaves State service. Should the employee later return to State employment, sick leave divested at the time the employee returns to the Executive Branch would not be eligible for reinstatement.

8. To obtain restoration of divested sick leave, an employee must apply in writing to the employing agency and include supporting documentation. The agency will determine the appropriate amount of divested sick leave to be restored.

9. Employees returning to State employment within one year of being laid off by a State agency in accordance with a reduction-in-force plan will immediately receive restoration of the sick and forfeited leave that was lost at the time of layoff, provided they return to a position entitled to accrue leave in accordance with this Rule. (See Section (11) of this Rule.)

(8) Personal Leave:

Each year, an employee who has an accrued sick leave balance of more than 120 hours as of November 30 may convert up to 24 hours of the excess sick leave to personal leave.

- (a) The employee must have a remaining sick leave balance of at least 120 hours after conversion.
- (b) The employee must notify the agency of such a conversion no later than December 31 of that year. Agencies should ensure that employees who are absent in a protected leave status (e.g., FMLA, military leave) during the election period are advised of any eligibility to convert sick leave to personal leave and provided a reasonable opportunity to make the conversion.
- (c) Sick leave that is converted during December becomes personal leave on January 1 and cannot be reversed after it is converted. Personal leave is available for use only during the calendar year following conversion.
- (d) Each agency, by written policy, may set a minimum period of personal leave to be charged for any use which is only a fraction of that period. The minimum leave period cannot be greater than fifteen (15) minutes.
- (e) Personal leave may be used for any reason, upon receiving supervisory approval, with the following exceptions:
 - (i) Employees cannot use personal leave while they are receiving Georgia State-funded wage substitutes, such as Workers' Compensation wage loss benefits.
 - (ii) An agency may by written policy require its employees to use available sick leave before using personal leave when the absence involves medical reasons that would qualify for sick leave.
- (f) Agencies should make every reasonable effort to accommodate requests to utilize personal leave. An employee is, however, expected to give as much advance notice as possible to minimize disruptions.
- (g) Personal leave not used by December 31 of the year the leave was available will be divested and cannot be restored.
- (h) Any unused personal leave at the time of an employee's break in State service of at least one full workday is divested and not paid to the employee.
- (i) When an employee transfers into a position that is not entitled to earn leave (i.e., temporary position, hourly position for which the employee is paid only for the time worked, or part-time position scheduled for fewer than 20 hours per week) any unused personal leave is divested and not paid.
- (j) Personal leave carries no cash value if unused. There will be no payout for unused personal leave upon termination.

(9) Election to Use Accrued Leave or Personal Leave for Workers' Compensation Absence:

- (a) An employee may not use annual, sick, or personal leave for an accidental injury or occupational disease which is compensable under the Georgia Workers' Compensation Act, unless the employee elects in writing to use paid leave in lieu of receiving Workers' Compensation wage loss benefits.
- (b) The leave granted for such purpose will be credited on a day-for-day basis as compensation against any indemnity award by the State Board of Workers' Compensation.
- (c) An employee may prospectively submit to the agency a written election to use annual, sick, and/or personal leave in lieu of receiving Workers' Compensation wage loss benefits.

(10) Transfer of Accrued Leave and Personal Leave:

The following provisions define the transfer of accrued leave and personal leave when employees transfer to a different State government agency or entity without a break in service from a position entitled to accrue leave into

another position entitled to accrue leave. Note that accumulated compensatory time does not transfer between State entities. Upon transfer, the losing organization must payout unused FLSA compensatory time, and unused State compensatory time balances are divested and not paid. (See Sections (23) FLSA Compensatory Time and (24) State Compensatory Time of this Rule.)

(a) Transfer between Executive Branch Agencies:

Unused sick, annual, and personal leave and the record of forfeited leave will transfer between Executive branch agencies.

(b) Transfer between Branches of State Government:

1. Unused sick, annual, and personal leave and the record of forfeited leave will transfer from an Executive branch agency into the Legislative or Judicial branch to the extent the receiving organization agrees to accept the transfer. The employee will be paid for unused annual leave that cannot be transferred, up to a maximum of 360 hours, once the agency has received confirmation that the employee cannot receive credit. Accrued personal leave and sick leave balances that cannot be transferred are not paid and are divested.

2. The unused leave and record of forfeited leave will transfer into an Executive branch agency from the Legislative or Judicial branch only when the losing and receiving organizations have the same leave accrual program. If the Legislative or Judicial branch entity's leave program deviates from this Rule, leave balances and the record of forfeited leave will not transfer into the Executive branch agency, and the employee will be considered a new hire for purposes of graduated annual leave accrual.

(c) Transfer between Board of Regents and Executive Branch:

1. Unused sick, annual, and personal leave and the record of forfeited leave will transfer from an Executive branch agency into a unit of the Board of Regents/University System of Georgia to the extent the receiving organization agrees to accept the transfer. The employee will be paid for unused annual leave that cannot be transferred, up to a maximum of 360 hours, once the agency has received confirmation that the employee cannot receive credit. Accrued personal leave and sick leave balances that cannot be transferred are not paid and are divested.

2. Unused leave and the record of forfeited leave will not transfer into an Executive branch agency from the Board of Regents/University System of Georgia. Transferring employees are considered new hires for purposes of graduated annual leave accrual.

(d) Transfer between Authorities and Executive Branch:

1. Unused sick, annual, and personal leave and the record of forfeited leave will transfer from an Executive branch agency into an authority to the extent the receiving organization agrees to accept the transfer. The employee will be paid for unused annual leave that cannot be transferred, up to a maximum of 360 hours, once the agency has received confirmation that the employee cannot receive credit. Accrued personal leave and sick leave balances that cannot be transferred are not paid and are divested.

2. The unused leave and record of forfeited leave will transfer into an Executive branch agency from an authority only when the losing and receiving organizations have the same leave accrual program. If the authority's leave program deviates from this Rule, leave balances and the record of forfeited leave will not transfer into the Executive branch agency, and the employee will be considered a new hire for purposes of graduated annual leave accrual.

(e) Transfers between Community Service Boards (CSB), County Boards of Health, and Board of Health Community Operated Programs (BOHCOP) and Executive Branch:

1. Unused sick, annual, and personal leave and the record of forfeited leave will transfer from an Executive branch agency into a unit of a CSB, County Board of Health, and BOHCOP to the extent the receiving organization agrees to accept the transfer. The employee will be paid for unused annual leave that cannot be transferred, up to a

maximum of 360 hours, once the agency has received confirmation that the employee cannot receive credit. Accrued personal leave and sick leave balances that cannot be transferred are not paid and are divested.

2. Unused leave and the record of forfeited leave will not transfer into an Executive branch agency from any CSB, County Board of Health, or BOHCOP. Transferring employees are considered new hires for purposes of graduated annual leave accrual. An exception applies to classified employees whose unused sick, annual, and personal leave and record of forfeited leave will transfer into the Executive branch.

(11) Credit for Leave on Return from Layoff:

The provisions in this section apply to employees rehired into State service in a position entitled to accrue leave in accordance with this Rule within one (1) year of being laid off as a result of agency downsizing or reorganization.

(a) Upon rehire, the employee's sick leave balance existing at the time of layoff will be reinstated.

(b) Any record of forfeited leave existing at the time of layoff will be reinstated, but the leave will not be available for the employee's use, except as provided for in Section (7) Sick Leave, of this Rule.

(c) The period of absence for the layoff will not constitute a break in service for purposes of graduated annual leave accrual.

(d) Upon rehire, the employee's personal leave balance will be reinstated, unless the employee returns in the calendar year after the personal leave would have expired.

(12) Absence Due to Emergency Office Closures:

When the Governor, or an agency upon delegated authority by the Governor, closes an office or facility because of weather conditions or other emergency circumstances, affected employees are excused from duty without loss of pay as provided in this Rule section. Employees who are not directly affected by an emergency office closure will not be excused from work.

(a) Employees considered directly affected by a closure:

1. Employees who were scheduled to work in an affected area during an emergency office closure are considered affected by the closure.

2. Non-temporary salaried employees affected by the closure are paid for the scheduled work time they do not work because of the closure. This paid time off is not charged against their accrued leave.

3. The following employees are not eligible for compensation for absences due to emergency closure:

(i) Unaffected employees,

(ii) All temporary employees,

(iii) All hourly employees, and

(iv) Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(b) Employees considered unaffected by the closure:

Employees who were not scheduled to work in an affected area during an emergency office closure are considered unaffected by the closure. Employees scheduled to use leave or compensatory time during an emergency office

closure will be charged for that pre-approved leave or compensatory time because they are considered unaffected by the closure.

(c) **Essential Staff:**

An agency may determine that it is essential to continue certain functions during an emergency office closure. Employees whose functions are deemed essential may be required to work, rather than excused from duty.

1. Such employees will be compensated as usual for the time worked during their normal work schedule and do not have any right to additional absence or compensation for this time as a result of paid absence authorized for non-essential staff.

2. Essential employees who are required to work additional time because of an office or facility closing will be compensated in accordance with the provisions of statewide policy #7 - Rules, Regulations and Procedures Governing Working Hours, the Payment of Overtime and the Granting of Compensatory Time.

(d) If an employee is absent from duty because of severe weather conditions or other emergencies that do not cause her/his office or facility to close, the agency may permit the employee to:

1. Make up time lost from work. In order to comply with the Fair Labor Standards Act, a non-exempt employee must make up time during the same workweek as the time lost;

2. Charge the period of absence to accrued compensatory time;

3. Charge the period of absence to accrued annual leave;

4. Charge the period of absence to personal leave;

5. Charge the period of absence to deferred holiday time;

6. Telework (if determined appropriate by the agency); or,

If none of the above options are available, place the employee on leave without pay for the period of absence.

(13) Blood Donation Leave:

(a) Non-temporary salaried employees are permitted to take up to two (2) hours of paid time off to donate blood, up to four (4) times each calendar year. Employees who donate blood platelets or granulocytes through the plasmapheresis process may take up to four (4) hours of paid time off, up to four (4) times a calendar year.

(b) An eligibility exception applies to active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia. Such employees are not eligible for blood donation leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(c) The agency may specify the hours during which an employee may be absent in order to donate blood. An employee who does not use the entire time allowed at the time of each donation does not accrue any right to any subsequent paid or unpaid leave.

(14) Bone Marrow Donation Leave:

(a) Non-temporary salaried employees are granted seven (7) workdays of paid leave to donate bone marrow for transplantation. The amount of leave will not be deducted from any accrued leave balance and will be included as service time for purposes of computing any retirement or pension benefits.

(b) An eligibility exception applies to active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia. Such employees are not eligible for bone marrow donation leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(c) To receive paid bone marrow donation leave, the employee must have approval from the agency for absence and provide the agency with a written statement from a medical practitioner performing the procedure. If the donation does not occur, bone marrow donation leave is not applicable.

(15) Organ Donation Leave:

(a) Non-temporary salaried employees are granted 30 workdays of paid leave to donate an organ for transplantation. The term "organ" means any human organ, including an eye, which is capable of being transferred from the body of one person to another. The amount of leave will not be deducted from any accrued leave balance and must be included as service time for purposes of computing any retirement or pension benefits.

(b) An eligibility exception applies to active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia. Such employees are not eligible for organ donation leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(c) To receive paid organ donation leave, the employee must have approval from the agency for absence and provide the agency with a written statement from a medical practitioner performing the transplant procedure or a hospital administrator indicating that the employee is making an organ donation. If the donation does not occur, organ donation leave is not applicable.

(16) Court Leave:

(a) The State recognizes employees' obligation to perform civic duties when summoned as a potential juror or witness and grants time off to employees for such purposes. An employee may not be discharged, disciplined, or otherwise penalized because the employee is absent from employment for the purpose of attending a judicial proceeding in response to a subpoena, summons for jury duty, or other court order or process which requires the attendance of the employee.

(b) Leave Request and Supporting Documentation:

1. An employee who is summoned to perform jury duty or to serve as a witness during scheduled work time and needs to be absent from work is expected to provide a copy of the summons, subpoena, or other court order when requesting leave.

2. Because employees will typically not know in advance how much time will be required to fulfill their court obligation, employees may be required to update the agency at reasonable intervals concerning the time needed for absence from duty.

(c) Paid Court Leave:

1. Paid court leave is granted to non-temporary salaried employees, as outlined in this Rule Section, for the purpose of attending a judicial proceeding in response to a subpoena, summons for jury duty, or other court order or process which requires the attendance of the employee during scheduled work hours. Such paid time off is not charged to an employee's accrued leave.

2. The following employees are not eligible for paid court leave:

(i) All temporary employees,

(ii) All hourly employees, and

(iii) Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(d) Jury Duty:

1. Eligible employees will receive paid court leave while on jury duty for the time they are otherwise scheduled to work. Employees will be paid only for the time they are required to appear by the court, plus any additional time that is reasonably necessary, in the opinion of the agency, for the employee to prepare for or return from jury duty.
2. Employees will not receive any compensation for time spent serving as a juror that exceeds the employee's regular work schedule.
3. Employees may keep any juror fees and travel allowances they receive from the court.

(e) Court Attendance and Witness Duty Leave:

1. An employee summoned to appear as a witness or required by a court to attend a proceeding will typically be paid in the same manner as an employee serving on a jury. However, an employee will not receive paid court leave to attend a trial, arbitration hearing, or other judicial proceeding in which s/he:

- (i) Is charged with a crime;
- (ii) Is a plaintiff or defendant;
- (iii) Voluntarily appears as a witness;
- (iv) Is a witness in a case arising from or related to her/his outside employment or outside business activity;
- (v) Is testifying for a fee as an expert witness; or,
- (vi) Has any other personal or familial interest in the proceeding.

2. When paid court leave is not applicable, the employee must use annual leave, personal leave, compensatory time, deferred holiday time, or take leave without pay.

(f) Return from Court Leave:

Employees are required to report back to work as soon as they are released from jury duty or other court ordered appearance if the release occurs before the end of the scheduled workday. Management may require verification from the court showing the time served. Failure to return timely from court leave is treated as an unexcused absence.

(17) Voting Leave:

(a) The State encourages employees to exercise their right to vote in all federal, state, and local elections. Non-temporary salaried employees may be granted paid time off to vote, up to a maximum of two (2) hours per Election Day, as provided in this section. Paid voting leave is not charged to an employee's accrued leave.

(a) Eligibility for Voting Leave:

1. Paid voting leave is available to employees when their work schedule does not allow them at least two (2) hours (including travel) to vote either before or after work. Employees who are scheduled to begin work at least two (2) hours after the polls open or end work at least two (2) hours before the polls close are not eligible for voting leave.
2. Paid voting leave is not available for voting midday. It must be used either at the beginning or end of the employee's regular workday.

3. Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia are not eligible for voting leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(b) Voting leave covers only the time necessary to give an employee two (2) hours either before or after work to vote. For example, an employee whose work schedule allows only 1½ hours to vote either before or after work would be eligible for 30 minutes of voting leave.

(c) For those employees not eligible for voting leave, agencies have the discretion to arrange flexible work schedules for voting purposes. Agencies may also allow employees to use other available paid leave, other than sick leave, if they are not eligible for voting leave or need more than two (2) hours to vote.

(d) Early Voting:

An agency may allow employees paid voting leave on early voting days if it determines that doing so minimally disrupts normal operations.

(e) Notification Requirement:

Employees are responsible for requesting and obtaining approval from their supervisor in advance of taking time off to vote and should schedule the time off in a manner that minimally disrupts normal agency operations.

(18) Education Support Leave:

To supplement work-life balance options for State employees, the State provides up to eight (8) paid hours of leave per calendar year to eligible employees for the purpose of promoting education in Georgia. Such leave is in addition to, and not charged against, an employee's accrued leave.

(a) Education support leave may be taken in increments of fewer than eight (8) hours utilizing the same minimum period an agency has established for other forms of paid leave.

(b) Eligibility:

All eligibility criteria defined below must be met before an employee can use education support leave.

1. Any non-temporary, full-time employee of the State of Georgia, or of any branch, department, board, bureau, or commission thereof, may request to use and be considered for education support leave. An exception applies to active, salaried, non-temporary employees in the Executive branch who are rehired retirees of the Employees' Retirement System. Such employees are not eligible for education support leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

2. Only activities directly related to student achievement and academic support will qualify for education support leave. Such activities may range from early care and learning through higher education. Each State employer maintains the authority to determine, in accordance with the provisions outlined in this Rule, whether an activity would qualify for education support leave.

3. To use education support leave, an employee may be, but is not required to be, the parent of a student.

4. Employees must not receive pay for services they perform while using education support leave.

5. Employees must receive prior approval from their supervisor before providing the services for which they are requesting education support leave. The State employer has discretion to require written verification from a school administrator, teacher, or other official prior to approval.

6. The State employer maintains discretion to approve or deny requests for education support leave based on operational needs or other reasons, such as conduct, attendance, or unsatisfactory work performance. The State employer should ensure that denials are applied consistently for all similarly situated employees.

7. Use of education support leave for any political purpose or agenda is prohibited.

(c) Education support leave does not accumulate, and unused leave does not roll over into subsequent calendar years. Rather, eligible employees may use education support leave for qualifying absences that occur during their regular scheduled work hours, up to a total of eight (8) hours in any calendar year.

(d) Employees can use no more than eight (8) paid hours of education support leave in a calendar year regardless of transfer from one State employer to another. Each State employer is responsible for conducting due diligence to ensure an employee has not exhausted education support leave prior to approving the paid leave.

(e) Education support leave carries no cash value if unused. There will be no payout for unused education support leave upon termination.

(f) Education support leave is not available to support education outside of the State of Georgia.

(19) Disaster Volunteer Leave:

The State recognizes that cooperation among government agencies and volunteer service agencies is vital in coping with natural disasters and other emergencies. To help prevent the loss and destruction of life and property, the State believes that employees who are trained and experienced in disaster relief should be able to provide assistance for brief periods without loss of pay and benefits.

(a) Eligibility:

1. To be eligible for paid disaster volunteer leave, an employee must be a certified disaster service volunteer of the American Red Cross whose services have been requested by the American Red Cross or by the Civil Air Patrol Auxiliary of the United States Air Force. The request for leave is subject to approval by the employee's agency and must be coordinated through the Director of Emergency Management.

2. The following employees are not eligible for disaster volunteer leave:

(i) All temporary employees,

(ii) All hourly employees, and

(iii) Active, salaried, non-temporary employees who are rehired retirees of the Employee's Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(b) Paid Disaster Volunteer Leave:

An eligible employee may be granted leave with pay to participate in specialized disaster relief services for the American Red Cross or for the Civil Air Patrol Auxiliary of the United States Air Force. Paid leave to participate in specialized disaster relief services for the Civil Air Patrol Auxiliary of the United States Air Force is available only for service on a numbered mission in support of a county emergency management agency, the Georgia Emergency Management and Homeland Security Agency, or a comparable federal agency.

1. Paid leave under this section cannot exceed 15 workdays in any 12-month period and can be granted only for services related to a disaster occurring within the State of Georgia or in a bordering state which has a reciprocal statutory provision.

2. Paid disaster volunteer leave is not charged against an employee's accrued leave.

3. The employee will be compensated at the rate of pay for the regularly scheduled hours during which the employee is absent from work as a result of disaster volunteer leave.

(20) Line-of-Duty Injury Leave (Special Injury Leave):

A non-temporary salaried employee scheduled to work 30 or more hours per week who becomes physically disabled as a result of an injury incurred in the line-of-duty and caused by a willful act of violence committed by a non-agency employee is entitled to a leave of absence for the period the employee is physically unable to perform her/his duties. Such a leave of absence will be provided in lieu of using accrued leave, and the employee will continue to receive regular compensation, subject to the limitations below.

(a) Leave granted under this provision cannot exceed 180 workdays for any single incident.

(b) An employee seeking leave under this section must submit documentation of disability to the agency.

(c) The following employees are not eligible for line-of-duty injury leave:

(i) All temporary employees,

(ii) All hourly employees, and

(iii) Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(d) Benefits received under this provision of the Rule will be subordinate to any Workers' Compensation wage loss benefits that the employee is awarded and will be limited to the difference between the amount of Workers' Compensation benefits actually paid and the amount of the employee's regular compensation.

(e) Injury to Employees of the Department of Transportation:

When an employee of the Department of Transportation is disabled while working in the proximity of traffic movements or equipment movements doing maintenance, construction, or other activities which may be construed as hazardous, the reasons that qualify for line-of-duty injury leave are expanded. Qualifying reasons include: an act of violence, accident, or injury that is caused by a person other than an employee of the agency or an employee of a contractor or subcontractor performing duties under a contract with the agency.

(f) Permanent Disability to Law Enforcement Personnel:

Law enforcement personnel who are permanently disabled by an act of external violence or injury on the job and who qualify for a disability retirement benefit under O.C.G.A. § [47-2-221](#) are not eligible to receive line-of-duty injury leave under this provision.

(21) Leave for Contracting TB or Hepatitis on the Job:

(a) A non-temporary salaried employee who contracts tuberculosis or infectious hepatitis while charged with the care, treatment, or diagnosis of a person infected with tuberculosis or infectious hepatitis, and who has exhausted all available sick and annual leave will be granted a paid leave of absence of one-half her/his total compensation or \$150 per month, whichever is less, for the duration of the disability due to the tuberculosis or infectious hepatitis, not to exceed 350 weeks.

(b) The following employees are not eligible for paid leave for contracting TB or hepatitis on the job:

(i) All temporary employees,

(ii) All hourly employees, and

(iii) Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(c) An employee receiving leave under this special situation will be given credit for all salary adjustments and advancements, which would have been received had the employee remained in the same position with the same capacity and status held at the time the leave was granted.

(22) Leave Without Pay:

(a) Leave without pay may be used in the following situations:

1. When an employee is authorized for absence but does not have available paid leave to cover the absence;
2. When an employee is authorized for absence but foregoes the use of available paid leave for a Workers' Compensation-related absence or for other absence with the concurrence of the agency;
3. When an employee does not have approval for an absence (See Section (22)(g), below);
4. When there is insufficient funding for salaries (See Section (22)(h), below); and
5. When there is insufficient work available (See Section (22)(i), below).

(b) Leave without pay is not included as service time for purposes of computing retirement or pension benefits, unless otherwise specified.

(c) Short-Term Authorized Leave without Pay:

Agencies may grant an employee who is absent, but does not have accrued leave to cover the period of absence, leave without pay for a period of not more than 10 consecutive workdays in any one continuous absence. At the expiration of the approved leave, the employee shall be returned to the same position without any loss of rights provided the employee returns within the terms of the leave granted.

(d) Regular Leave of Absence without Pay:

1. A regular leave of absence without pay allows an employee to take unpaid time off for up to 12 continuous months and be granted return to work if the employee returns within the terms of the leave approval.
2. The employee must submit a written request to the agency. If approved, a written notice specifying the terms and conditions of the approval must be provided to the employee, including a statement indicating that the employee will be reinstated to the former position or to a position of equal grade and pay without loss of any rights provided the employee returns within the terms of the leave granted.
3. Although a regular leave of absence without pay does not constitute a break in service and does not result in divestment of leave, an employee who is taking an approved leave of absence without pay of 30 calendar days or more may request and receive an annual leave payout for all accrued annual leave excluding forfeited leave, up to a maximum of 360 hours. (See Section (6)(e)4 of this Rule.)

(e) Contingent Leave of Absence without Pay:

1. A contingent leave of absence without pay is similar to a regular leave of absence, but does not guarantee a position will be available for the employee's return.

2. The employee may submit a written request to the agency to take a continuous leave without pay for a period not exceeding 12 months. The notice of approval must include the terms and conditions of the approval including a statement that the employee's right to return at the expiration of leave is not guaranteed and will be contingent upon a suitable vacancy being available.

3. Because a contingent leave of absence without pay does not guarantee an employee the right to return to work at the expiration, it may not be considered a reasonable accommodation under the Americans with Disabilities Act, as amended.

4. Although a contingent leave of absence without pay does not constitute a break in service and does not result in divestment of leave, an employee who is taking an approved leave of absence without pay of 30 calendar days or more may request and receive an annual leave payout for all accrued annual leave excluding forfeited leave, up to a maximum of 360 hours. (See Section (6)(e)4 of this Rule.)

(f) Extending a Leave of Absence without Pay:

1. The agency may extend an approved leave of absence without pay when such extension is properly requested. The employee must submit a written request for extension before the expiration of approved leave or follow other agency procedures. If approved, a written notice specifying the terms and conditions of the extension, including any rights to reinstatement, must be provided.

2. A continuous unpaid leave of absence may not exceed 24 months, unless otherwise required as a reasonable accommodation.

(g) Unauthorized Leave without Pay:

1. An employee who is absent without approval may be placed in non-pay status and may be subject to disciplinary action, up to and including termination of employment.

2. An unclassified employee who is absent from duty for three (3) consecutive workdays or equivalent without proper authorization may be considered to have voluntarily resigned. (See Rule [478-1-.15](#), Changes to Employment Status.)

3. A classified employee who is absent from duty for five (5) consecutive workdays or the equivalent of a scheduled workweek without proper authorization may be considered to have voluntarily resigned. (See Rule [478-1-.28](#), Voluntary Separations for Classified Employees.)

(h) Furlough - Insufficient Funding:

1. Due to a curtailment of funds, an agency may place employees in a non-pay status as a temporary reduction-in-force pursuant to a plan filed with the Department of Administrative Services.

2. On furlough days, an employee does not perform work and does not receive pay.

3. Employees may not be placed in non-pay furlough status for more than a total of 30 workdays in any 12-month period.

4. Absences under these circumstances will not be charged against accrued leave or compensatory time, will not be considered a break in service, and will not affect eligibility for salary increases.

(i) Temporary Layoff - Insufficient Work:

1. If sufficient work is temporarily unavailable or not feasible, the supervisor may, pursuant to a prior written employment agreement with an employee, place the employee in a non-pay status during the period.

2. The agreement should clearly specify the terms and conditions of the leave without pay and any rights to reinstatement.
3. An employee affected by a temporary layoff because of insufficient work may request the use of accrued annual leave, personal leave, deferred holiday time, or compensatory time to remain in pay status.
4. This provision may not be used in lieu of an adverse action against an employee.

(23) FLSA Compensatory Time:

Overtime for non-exempt employees will be governed by the provisions of the Fair Labor Standards Act (FLSA). Overtime worked by non-exempt employees will normally be credited as FLSA compensatory time at a rate of one and one-half hours of compensatory time for each hour of overtime worked. (See statewide policy #7 - Rules, Regulations and Procedures Governing Working Hours, the Payment of Overtime and the Granting of Compensatory Time.)

(a) Overtime:

1. Each agency is responsible for the control of all overtime worked in the agency and for accurately approving and recording such overtime worked in the agency time and leave system.
2. For most non-exempt employees, overtime is credited when the employee actually works more than 40 hours in a defined workweek. The overtime threshold is defined differently for law enforcement, fire protection, hospital, and nursing home employees if they use extended FLSA work period options as provided in statewide policy #7 - Rules, Regulations and Procedures Governing Working Hours, the Payment of Overtime and the Granting of Compensatory Time.
3. Time worked does not include paid time off, such as leave, holidays, or suspension.
4. Unscheduled and unauthorized overtime worked by non-exempt employees will be compensated. However, disciplinary action determined appropriate by the agency, up to and including separation from employment, may be taken against a non-exempt employee who works unscheduled or unauthorized hours.

(b) Use and Limitations of FLSA Compensatory Time:

1. An employee must be granted FLSA compensatory time off within a reasonable time after making the request if the use of such time off does not unduly disrupt operations.
2. An agency may by written policy require its employees to use accumulated FLSA compensatory time before using annual and/or sick leave.
3. For most employees, the maximum FLSA compensatory time accrual is 240 hours at any given time. The maximum accrual is 480 hours for employees in a public safety activity, emergency response activity, or seasonal activity. Compensatory time in excess of 240 hours (480 hours for employees in a public safety activity, emergency response activity, or seasonal activity) must be paid out.

(c) Payment for Overtime:

1. Employees receive pay for overtime only in the following situations:
 - (i) When the agency approves payment in lieu of FLSA compensatory time as provided in statewide policy #7 - Rules, Regulations and Procedures Governing Working Hours, the Payment of Overtime and the Granting of Compensatory Time.
 - (ii) Upon exceeding the accumulation limits of FLSA compensatory time. (See Section (23)(b)2.)

(iii) Upon separation from employment with the agency, including transfer from the agency to another State employer.

2. Payment for overtime is typically made the pay period following the pay period in which the overtime is earned. Payment for law enforcement, fire protection, hospital, and nursing home staff with unique FLSA work periods is made the pay period following the FLSA work period during which the overtime is earned.

(24) State Compensatory Time:

State compensatory time is hour-for-hour paid time off for employees who work longer than the normally assigned hours in a work period but do not qualify for FLSA compensatory time. Each agency by written policy defines which of its employees, if any, are eligible for state compensatory time as provided in statewide policy #7 - Rules, Regulations and Procedures Governing Working Hours, the Payment of Overtime and the Granting of Compensatory Time.

(a) The maximum state compensatory time accrual allowed is 240 hours at any given time. Any state compensatory time earned in excess of 240 hours is lost and not paid out.

(b) State compensatory time not used within one (1) year of the date that it is earned is lost and not paid out.

(c) Unused state compensatory time is lost upon separation from employment. The employee will not be compensated for such time in any manner, and it will not transfer with the employee to another State entity.

(d) An agency may by written policy require its employees to use accumulated state compensatory time before using annual and/or sick leave.

(25) Holidays:

(a) Observing State Holidays:

The State observes 12 public holidays each calendar year on dates declared by the Governor. State offices are closed and employees do not report for work on declared holidays, except as noted below.

1. 24-7 operations, such as hospitals and correctional facilities, will remain open on holidays, and designated staff will report for work.

2. State operations with seasonal fluctuations that result in insufficient availability of work during certain times of the year may establish a policy for its employees to observe holidays during the work down cycle, rather than on the dates declared by the Governor. The policy must be in writing and communicated to all affected employees, and the alternate holidays must be observed within the same calendar year as the dates declared by the Governor.

3. In emergency situations or to meet essential business needs, an agency may require one or more employees to work on a holiday.

(b) Eligibility for Paid Holiday:

1. Salaried employees and other employees designated by the Georgia Industries for the Blind are eligible to receive paid time off for State holidays they observe, as provided in this Rule section.

2. To be eligible for pay on a State holiday, an employee must be in pay status for the full scheduled work shift on either the workday immediately before or immediately after the holiday. "Pay status" means either working or taking approved paid time off.

3. Employees are not paid for a holiday that occurs the day before they enter or reenter State service.

4. Employees are not paid for a holiday that occurs the day after they leave State employment.

5. Employees are not paid for a holiday that occurs on their last day of State employment, unless the holiday is at the end of their normal workweek. (See item 6, below, for an exception.)

6. The compensation for employees retiring from State employment will not be reduced when their last day of employment before retirement falls on a holiday.

7. The following employees are not eligible for paid State holidays:

(i) All temporary employees,

(ii) All hourly employees, and

(iii) Active, salaried, non-temporary employees who are rehired retirees with the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

8. Part-time salaried employees and part-time employees of the Georgia Industries for the Blind are not paid for a holiday that falls on a day they would not have otherwise been scheduled to work. For example, a part-time employee who is scheduled to work Mondays, Wednesdays, and Fridays, would not be paid for a holiday that falls on a Thursday.

(c) Pay for Holidays and Provisions for Employees on Alternative Work Schedules:

1. Employees eligible for a paid holiday receive pay for the time they would otherwise have worked that day, up to a maximum of eight (8) hours.

2. An agency with full-time salaried employees on alternative work schedules will define the options available to its employees who would have been scheduled for shifts longer than eight (8) hours on the holiday. Such options include allowing employees to:

(i) Revert to an 8x5 work schedule during the week of the holiday (or for a 2-week cycle for employees on a 9-hour workday schedule);

(ii) Use paid leave to supplement the holiday pay and receive full pay for the day; or,

(iii) Work additional time during the week of the holiday to remain in pay status the full workweek.

3. An agency with full-time salaried employees on alternative work schedules whose scheduled day off falls on a holiday may allow such employees to revert to an 8x5 schedule, as indicated in Section 25(c)2, above, or allow them to remain on their alternative schedule and receive equivalent time off for the holiday, as defined in Section (25)(d), below.

(d) Equivalent Time Off or Deferred Holiday Payout:

1. Equivalent time off (i.e., deferred holiday time) will be made available to employees who would otherwise have been eligible for a paid holiday but were either required to work on part or all of a holiday or whose scheduled day off occurred on a holiday. See exceptions in (i) and (ii), below.

(i) Neither equivalent time off, nor additional compensation, will be given to those employed on an academic school year basis whose annual compensation is based on a specified number of workdays, and the holiday is a workday on which their salary is based.

(ii) Part-time employees whose scheduled day off occurred on a holiday are not given equivalent time off or additional compensation for the holiday.

2. Equivalent time off to observe the holiday will not exceed the time actually worked on the holiday or eight (8) hours, whichever is less.
3. An agency may by written policy require its employees to use deferred holiday time before using annual leave, sick leave, personal leave, or compensatory time.
4. Deferred holiday time must be used within 365 days after the day proclaimed as a holiday; otherwise, it must be paid out by the agency.
5. An employee who separates from an agency will be paid for any deferred holiday time not used or paid out prior to separation.
6. An employee will not be paid for a holiday in advance of the observance of the holiday.
7. An employee scheduled to work on a holiday who, without prior approval, fails to report for any portion of the scheduled duty will not be granted deferred holiday time for the time (if any) that was worked on the holiday. Such employee may be subject to leave without pay for the scheduled time not worked and/or other appropriate.

(e) Request to Observe Other Religious Holiday:

1. An employee may request priority consideration for time off from work to observe a religious holiday that is not observed as a State holiday. To receive priority consideration, the request should be made at least seven (7) calendar days in advance.
2. An employee may request priority consideration for up to three (3) workdays in each calendar year.
3. A request by an employee for time off for religious observance cannot be denied unless:
 - (i) The duties performed by the employee are urgently required, and the employee, in the agency's judgment, is the only person available who can perform the duties; or,
 - (ii) The agency can otherwise show that accommodating the request would be an undue hardship.
4. Any paid time off granted to observe a religious holiday will be deducted from the employee's accrued annual leave, personal leave, compensatory time, or deferred holiday time available at the time of the observance. If the employee does not have sufficient annual leave, personal leave, compensatory time, or deferred holiday time to cover the period of absence, the agency must allow leave without pay for the absence, unless doing so would be an undue hardship.

(26) Paid Parental Leave:

To enhance work-life balance for employees, the State provides full-time employees, as well as hourly employees who meet the criteria noted in subsection (a) 2 (ii) below, with up to 120 hours of paid parental leave in a 12-month period. Paid parental leave is not charged against an employee's accrued leave.

(a) Eligibility:

1. Eligibility for paid parental leave is based on one of the following qualifying life events:
 - (i) birth of the employee's child;
 - (ii) placement of a minor child for adoption with the employee; or
 - (iii) placement of a minor child for foster care with the employee.

2. To be eligible to use paid parental leave for a qualifying life event, an employee must meet one of the two following criteria:

(i) if salaried, the employee must have six continuous months of employment with an employing entity (as defined in O.C.G.A. [45-20-17\(a\)\(2\)\(A\)](#)); or,

(ii) if hourly, the employee must have worked 700 hours for an employing entity (as defined in O.C.G.A. [45-20-17\(a\)\(2\)\(A\)](#)) in the six months immediately preceding the first requested paid parental leave date.

Rehired retirees of the Employees' Retirement System of Georgia, whether salaried or hourly, are not eligible for paid parental leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(b) Usage of Paid Parental Leave

1. An eligible employee may take a maximum of 120 hours of paid parental leave in a rolling 12-month period. The rolling period will be measured backward from the first date of leave taken. The amount of leave in a rolling 12-month period cannot exceed 120 hours, regardless of the number of qualifying events that occur during that period and regardless of transfers between employing entities (as defined in O.C.G.A. § [45-20-17\(a\)\(2\)\(A\)](#)). Each state employer is responsible for conducting due diligence to ensure an employee has not exhausted the 120-hour allotment prior to approval of paid parental leave.

2. Leave may be taken as needed and in increments of less than eight hours, using the same minimum period an agency has established for other forms of paid leave.

(c) If an employee eligible for paid parental leave is also eligible for leave under the federal Family and Medical Leave Act (FMLA) (see Rule [478-1-.23](#), Family and Medical Leave), an agency may, by written policy, require paid parental leave to run concurrently with FMLA leave.

(d) Agencies may require employees to submit appropriate supporting documentation for the use of paid parental leave. Any required supporting documentation shall be the same as that required for the use of federal family and medical leave under Section (7) of Rule [478-1-.23](#), Family and Medical Leave, for the same qualifying event.

(e) Any paid parental leave remaining 12 months after the initial qualifying event shall not carry over for future use.

(f) Unused paid parental leave shall have no cash value and shall not be paid out at the time of the employee's separation from employment.

Cite as Ga. Comp. R. & Regs. R. 478-1-.16

AUTHORITY: O.C.G.A. §§ [45-20-3](#), [45-20-3.1](#), [45-20-4](#), [45-20-16](#).

HISTORY: Original Rule entitled "Veteran's Preference" adopted. F. July 31, 1985, eff. July 1, 1985, as specified by the Board.

Amended: F. Jan. 22, 1988; eff. Nov. 12, 1987, as specified by the Board.

Amended: R. 478-1-.0 C repealed and renumbered R. 478-1-.16 of same title adopted. F. Aug. 11, 1992; eff. July 2, 1992, as specified by the Board.

Amended: F. Oct. 17, 1994; eff. Oct. 6, 1994, as specified by the Board.

Amended: F. Apr. 22, 1997; eff. Apr. 9, 1997, as specified by the Board.

Amended: F. Oct. 8, 1997; eff. Sept. 25, 1997, as specified by the Board.

Amended: F. Jan. 13, 2003; eff. Dec. 4, 2002, as specified by the Board.

Amended: F. Jan. 5, 2006; eff. Dec. 22, 2005, as specified by the Board.

Repealed: New Rule entitled "Absence from Work" adopted. F. Dec. 23, 2008; eff. Dec. 17, 2008, as specified by the Board.

Amended: F. Oct. 28, 2009; eff. Aug. 27, 2009, as specified by the Board.

Amended: F. July 30, 2010; eff. July 16, 2010, as specified by the Board.

Amended: F. Dec. 30, 2013; eff. Sep. 25, 2013, as specified by the Board.

Amended: F. July 1, 2015; eff. June 25, 2015, as specified by the Board.

Amended: F. Jan. 17, 2017; eff. Jan. 9, 2017, as specified by the Board.

Amended: F. July 15, 2021; eff. June 22, 2021, as specified by the Board.

Department 480. RULES OF GEORGIA STATE BOARD OF PHARMACY

Chapter 480-6. PHARMACY LICENSES

480-6-.02 Nonresident Pharmacy Permit

(1) Effective April 1, 2015, it shall be unlawful for any person, pharmacy, or facility located outside this state to ship, mail, or deliver prescription drugs orders into this state or to advertise its services, personally or through an in-state third party, unless such person, pharmacy or facility holds a pharmacy license pursuant to O.C.G.A. Section [26-4-110.1](#), or holds a nonresident pharmacy permit pursuant to O.C.G.A. Section [26-4-114.1](#), or is otherwise exempt from Georgia registration as a matter of Georgia law.

(2) Application for a non-resident pharmacy permit:

(a) Applications must be filed with the Georgia State Board of Pharmacy located at 2 Peachtree Street, NW, 6th Floor, Atlanta, Georgia 30303, along with the required fee.

(b) The Board requires information from each applicant for a nonresident pharmacy permit on its application, including but not limited to, the following:

1. The name, full business address, and telephone number of the applicant;
2. All trade or business names used by the applicant;
3. Address, telephone numbers, and the names of contact persons for each facility used by the applicant for the records, storage, handling, and distribution of prescription drugs into this state;
4. Address, telephone number and name of agent of service for the applicant;
5. The type of ownership or operations (i.e., partnership, corporation, or sole proprietorship);
6. The name(s) of the owner and/or operator of the pharmacy, including:
 - (i) If a person, the name of the person;
 - (ii) If a partnership, the name of each partner and the name of the partnership;
 - (iii) If a corporation, the name and title of each corporate officer and director, the corporate names, and the name of the incorporation, and the name of the parent company, if any; or
 - (iv) If a sole proprietorship, the full name of the sole proprietorship and the name of the business entity.
7. Where operations are conducted at more than one location by a single pharmacy, each such location shall be permitted by the Board;
8. Proof of a valid, unexpired license, permit, or registration to operate a pharmacy in the compliance with the laws and rules of each state in which the applicant receives and dispenses prescription drug orders;
9. The names and license numbers of the pharmacist-in-charge of each facility involved in dispensing drugs to residents of this state and evidence that the pharmacist(s) are licensed and in good standing in the state where they are located;
10. Information necessary to demonstrate compliance with O.C.G.A. T. 50, Ch. 36;

11. Evidence satisfactory to the Board that the applicant is in compliance with all laws and investigations from each regulatory or licensing agency in which the applicant holds a license; and

12. If dispensing sterile or nonsterile compounding for practitioners to use in patient care in the practitioner's office, a copy of the most recent inspection report that is no older than two (2) years before the date of application was submitted and which is from an inspection conducted by the regulatory or licensing agencies of the jurisdiction in which the applicant is located that indicates compliance with the Board's rules and regulations and compliance with USP-NF standards for pharmacies performing sterile and nonsterile compounding, or another inspection approved by or conducted by the Board.

(3) Registration of a nonresident pharmacy permit will be considered on the basis of the application filed with the Board, fee paid, and a report from the Director of the GDNA certifying the applicant possesses the necessary qualifications for a permit.

(4) Application fees and renewal fees shall be set by the Board in a fee schedule and shall not be refundable.

(5) Permits may be denied for failure to comply with rules of the Board, for failure to meet the minimum qualifications for a permit, for the conviction by an owner or pharmacist of a felony involving the practice of pharmacy or the distribution of drugs, for false representations on an application, and for any other good cause related to evidence of misfeasance or malfeasance by the applicant.

(6) Permits become null and void upon the sale, transfer or change of mode of operation or location of the business. Prior to the sale, transfer or change in mode of operation or the location of the business, the nonresident pharmacy may apply for such change by submitting a Board- approved application to the Board, and paying a fee. The permits of nonresident pharmacies will not become void if proper application is made and approved prior to the change.

(7) Permits are issued for two years and expire on June 30th of each odd-numbered year, and may be renewed for two years upon the payment of the required fee for each place of business and the filing of a completed application for renewal. Applicants for renewal must submit such evidence as requested by the Board including, but not limited to evidence of certain inspection reports on compounding and the status of the licenses of the pharmacy and pharmacists in the state of location. If the application for renewal is not made and the fee not paid before September 1st of the odd-numbered year, the permit shall lapse and shall not be renewed, and an application for reinstatement shall be required. Reinstatement is at the sole discretion of the Board.

(8) The denial of a nonresident pharmacy permit and the denial of the renewal of a nonresident pharmacy permit shall not be considered a contested case under the provisions of O.C.G.A. T. 50, Ch. 13, but the applicant shall be entitled to an appearance before the Board.

(9) Nonresident pharmacy permit holders shall comply with all the recordkeeping requirements of the state in which they are located and licensed for all prescriptions shipped, mailed or delivered to patients or practitioners in the State of Georgia, but shall be maintained a minimum of two (2) years. Nonresident pharmacy permit holders shall notify the Board of each location where the required records are being maintained, and such records must be readily retrievable and produced to the Board within fifteen (15) business days, upon written request.

(10) In addition to labeling requirements required by the state where the nonresident pharmacy is located, the permit holders shall label the drugs dispensed with the following minimum information:

- (a) The name and address of the dispenser;
- (b) The serial number and date of the prescription or of its filling;
- (c) The name of the prescriber;
- (d) The name of the patient;

(e) The name of the drug dispensed;

(f) The direction for use and cautionary statements; and

(g) Identification of the pharmacist filling the prescription.

(11) Nonresident pharmacy permit holders shall comply with the Board's rules and regulations on delivery of prescriptions by mail in Board Chapter 480-48.

(12) Nonresident pharmacy permit holders shall comply with the laws and rules and regulations of the state where such pharmacies are located.

(13) Nonresident pharmacy permit holders who compound drugs must comply with the federal compounding laws as required in Board Chapter 480-11.

(14) Nonresident pharmacy permit holders shall maintain a toll-free telephone number operational during the permit holder's regular hours of operation, but not less than six days per week for a minimum of 60 hours per week, in order to provide patient counseling. Such toll-free number shall be capable of receiving inbound call from patients to the permit holder, and such number shall be on file with Board and shall be included on the label affixed to each container of all dispensed and distributed drugs sent into the State of Georgia.

(15) Nonresident pharmacy permit holders must notify the Board within five (5) business days of the receipt of any final order or decision by any other licensing board or federal agency of the imposition of disciplinary action or restriction by such other licensing board or federal agency. A final order or decision includes a consent order or agreement and is any decision, regardless whether there still exists an appellate right to the state or federal courts. Any revocation or suspension of a state or federal license or permit will result in the immediate suspension of the nonresident pharmacy permit pending a final decision by the Board.

(16) Within 72 hours, nonresident permit holders must update the Board of any change in pharmacist-in-charge of shipping into Georgia by completing forms provided by the Board and including such pharmacist licensure information and criminal history. Where a criminal background check cannot be completed within the seventy-two (72 hours) contemplated by this section, nonresident pharmacy permit holders must still update the Board of any change in pharmacist-in-charge of shipping into Georgia by completing forms provided by the Board and including such pharmacist licensure information, but shall have up to fifteen (15) business days to provide criminal history information.

(17) Nonresident pharmacy permit holders shall cooperate with the Board in any investigation involving prescription drugs distributed by such permit holder into this state or related to the permit holder's compounding practices. The permit holder shall respond within ten (10) business days to all communications from the Board or its designee. Failure to respond or cooperate with the Board shall be grounds for the immediate suspension of the nonresident pharmacy permit, pending a hearing on further disciplinary action by the Board. Failure to cooperate with the Board is grounds for disciplinary action by the Board.

(18) Notices to nonresident pharmacy permit holders shall be made on the agent of record with the Board. If notices are returned as undeliverable or unclaimed, service shall be made on the Executive Director, and any disciplinary proceedings shall proceed, or if a final decision, the decision shall become effective.

(19) If, in the course of investigation of a nonresident pharmacy permit holder or applicant, an onsite inspection by the Board or its designee is required, the permit holder or applicant shall be responsible for the cost of such onsite inspection.

(20) A nonresident pharmacy permit may be revoked or suspended or otherwise disciplined for any reason that a permit may be denied, for failure to comply with this rule, for disciplinary action by other states and federal agencies, for conduct causing bodily or psychological injuries to a resident of this state, and for failure to comply with Board laws and other applicable rules as provided herein.

(21) If a nonresident pharmacy holder has an affiliate as defined by O.C.G.A. § [26-4-119](#), it shall annually file a disclosure statement identifying all such affiliates no later than June 30 every year.

Cite as Ga. Comp. R. & Regs. R. 480-6-.02

AUTHORITY: O.C.G.A. §§ [26-3-8](#), [26-4-5](#), [26-4-27](#), [26-4-28](#), [26-4-60](#), [26-4-80](#), [26-4-82](#), [26-4-83](#), [26-4-85](#), [26-4-110](#), [26-4-110.1](#), [26-4-114.1](#), [26-4-119](#), [43-1-19](#).

HISTORY: Original Rule entitled "To Provide for the Revocation and Suspensions of Licenses and Registration for Certain Causes" adopted. F. and eff. June 30, 1965.

Repealed: F. Oct. 6, 1970; eff. Oct. 26, 1970.

Adopted: New rule entitled "Nonresident Pharmacy Permit." F. Sep. 17, 2014; eff. Oct. 7, 2014.

Amended: F. Dec. 18, 2014; eff. Jan. 7, 2015.

Amended: F. Jan. 23, 2015; eff. Feb. 12, 2015.

Amended: F. June 29, 2015; eff. July 19, 2015.

Amended: F. Apr. 13, 2021; eff. May 3, 2021.

Note: Correction of non-substantive typographical error in paragraph (18), "... service shall be made on the Executive Director., ..." corrected to "... service shall be made on the Executive Director, ..." (i.e., deletion of period after Director), as requested by the Board. Effective July 20, 2021.

Department 565. GEORGIA SAFE HARBOR FOR SEXUALLY EXPLOITED CHILDREN FUND COMMISSION

Chapter 565-1. RULES OF FUNDING GUIDANCE

565-1-.01 Fund Administration

(1) Under Ga. Code Ann §§ [15-21-200](#) - 15-21-209, the Safe Harbor for Sexually Exploited Children Fund Commission ("the Commission") is authorized to disburse available money from the Safe Harbor for Sexually Exploited Children Fund ("the fund"), after appropriation thereof, for purposes of providing care, rehabilitative services, residential housing, health services, and social services, including establishing safe houses, to sexually exploited children and to a person, entity, or program eligible pursuant to criteria to be set by the Commission.

(2) The Commission shall also consider disbursement of available appropriated money from the fund to a person, entity, or program devoted to awareness and prevention of becoming a sexually exploited child.

(3) The Commission may also authorize the disbursement of fund money for the actual and necessary operating expenses that the Commission incurs in performing its duties; provided, however, that such disbursements shall be kept at a minimum in furtherance of the primary purpose of the fund, which is to disburse money to provide care and rehabilitative and social services for sexually exploited children.

(4) Funds received by the Commission must be deposited, accounted for, and disbursed in the same manner as that of the funds of this state but will not be required to be deposited in and appropriated from the state treasury.

Cite as Ga. Comp. R. & Regs. R. 565-1-.01

AUTHORITY: O.C.G.A. § [15-21-205](#).

HISTORY: Original Rule entitled "Fund Administration" adopted. F. July 6, 2021; eff. July 26, 2021.