Georgia Rules and Regulations
Administrative Bulletin for July 2023

OFFICE OF SECRETARY OF STATE
ADMINISTRATIVE PROCEDURE DIVISION
5800 Jonesboro Road
Morrow, GA 30260
(404) 909-8909

Final rules filed with the Georgia Secretary of State during the month of *July 2023:*

Table of Contents

Department	Rules List	Action	Filed	Effective	Page
	80-3-3-.01	amended	Jul. 7	July 27, 2023	51
	80-3-4-.01	amended	Jul. 7	July 27, 2023	53
	80-3-5-.01, 80-3-5-.02	amended	Jul. 7	July 27, 2023	56
	80-3-5-.04, 80-3-5-.05	adopted	Jul. 7	July 27, 2023	57
	80-3-6-.02, 80-3-6-.03	amended	Jul. 7	July 27, 2023	59
	80-4-1-.01, 80-4-1-.05	amended	Jul. 7	July 27, 2023	61
	80-4-1-.10	adopted	Jul. 7	July 27, 2023	66
	80-5-1-.02, 80-5-1-.03	amended	Jul. 7	July 27, 2023	67
	80-8-1-.01	amended	Jul. 7	July 27, 2023	76
	80-11-1-.04, 80-11-1-.05	amended	Jul. 7	July 27, 2023	77
	80-11-1-.09	adopted	Jul. 7	July 27, 2023	79
	80-11-2-.01, 80-11-2-.03	amended	Jul. 7	July 27, 2023	80
	80-11-3-.01	amended	Jul. 7	July 27, 2023	83
	80-11-5-.04, 80-11-5-.09	amended	Jul. 7	July 27, 2023	88
	80-13-1-.01, 80-13-1-.10	amended	Jul. 7	July 27, 2023	90
	80-13-1-.14, 80-13-1-.15	adopted	Jul. 7	July 27, 2023	96
	80-14-1-.02, 80-14-1-.03	amended	Jul. 7	July 27, 2023	99
	80-14-3-.01	amended	Jul. 7	July 27, 2023	101
	80-14-4-.05	amended	Jul. 7	July 27, 2023	105
	80-14-6-.01 --- 80-14-6-.04	adopted	Jul. 7	July 27, 2023	106
160. RULES OF GEORGIA DEPARTMENT OF EDUCATION	160-4-2-.13	amended	Jul. 20	Aug. 9, 2023	110
250. RULES OF GEORGIA STATE BOARD OF FUNERAL SERVICE	250-6-.08	amended	Jul. 20	Aug. 9, 2023	112

Department	Rules List	Action	Filed	Effective	Page
391. RULES OF GEORGIA DEPARTMENT OF NATURAL RESOURCES	391-3-4-.01, 391-3-4-.03, 391-3-4-.04, 391-3-4-.06, 391-3-4-.08	amended	Jul. 17	Aug. 6, 2023	114
410. RULES OF GEORGIA BOARD OF NURSING	410-2-.01 --- 410-2-.07	amended	Jul. 27	Aug. 16, 2023	137
	410-4-.01, 410-4-.02	amended	Jul. 27	Aug. 16, 2023	146
413. GRANTS OF THE ONEGEORGIA AUTHORITY	413-1-.05 --- 413-1-.10	amended	Jul. 30	July 30, 2023	149
505. PROFESSIONAL STANDARDS COMMISSION	505-6-.08	repealed	Jul. 27	Aug. 15, 2023	154
513. RULES OF PUBLIC RETIREMENT SYSTEMS	513-7-1-.05, 513-7-1-.09, 513-7-1-.12, 513-7-1-.14	amended	Jul. 28	Aug. 17, 2023	155
560. RULES OF DEPARTMENT OF REVENUE	560-7-8-.69	adopted	Jul. 10	July 30, 2023	160
609. STATE BOARD OF EXAMINERS OF SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY	609-8-.02	amended	Jul. 20	Aug. 9, 2023	169

Final rules filed with the Georgia Secretary of State that became effective *July 2023:*

Department	Rules List	Action	Filed	Effective
40. RULES OF GEORGIA DEPARTMENT OF AGRICULTURE	40-2-16-.01 --- 40-2-16-.31	adopted	June 9, 2023	Jul. 1
80. RULES OF DEPARTMENT OF BANKING AND FINANCE	80-1-1-.01	amended	July 7, 2023	Jul. 27
	80-1-2-.01	amended	July 7, 2023	Jul. 27
	80-1-2-.02 --- 80-1-2-.04	repealed	July 7, 2023	Jul. 27
	80-1-2-.05, 80-1-2-.06	amended	July 7, 2023	Jul. 27
	80-1-2-.08	repealed	July 7, 2023	Jul. 27
	80-1-4-.01	amended	July 7, 2023	Jul. 27
	80-1-11-.05	amended	July 7, 2023	Jul. 27
	80-2-1-.01	amended	July 7, 2023	Jul. 27
	80-2-1-.06	adopted	July 7, 2023	Jul. 27
	80-2-3-.01, 80-2-3-.04	amended	July 7, 2023	Jul. 27
	80-2-4-.01 --- 80-2-4-.03, 80-2-4-.08	amended	July 7, 2023	Jul. 27
	80-2-7-.01, 80-2-7-.02	amended	July 7, 2023	Jul. 27
	80-2-7-.03	adopted	July 7, 2023	Jul. 27
	80-2-9-.01	amended	July 7, 2023	Jul. 27
	80-2-12-.02, 80-2-12-.04	amended	July 7, 2023	Jul. 27
	80-3-1-.01 --- 80-3-1-.03	amended	July 7, 2023	Jul. 27
	80-3-2-.01 --- 80-3-2-.03	amended	July 7, 2023	Jul. 27
	80-3-2-.07	adopted	July 7, 2023	Jul. 27
	80-3-3-.01	amended	July 7, 2023	Jul. 27
	80-3-4-.01	amended	July 7, 2023	Jul. 27
	80-3-5-.01, 80-3-5-.02	amended	July 7, 2023	Jul. 27

Department	Rules List	Action	Filed	Effective
	80-3-5-.04, 80-3-5-.05	adopted	July 7, 2023	Jul. 27
	80-3-6-.02, 80-3-6-.03	amended	July 7, 2023	Jul. 27
	80-4-1-.01, 80-4-1-.05	amended	July 7, 2023	Jul. 27
	80-4-1-.10	adopted	July 7, 2023	Jul. 27
	80-5-1-.02, 80-5-1-.03	amended	July 7, 2023	Jul. 27
	80-8-1-.01	amended	July 7, 2023	Jul. 27
	80-11-1-.04, 80-11-1-.05	amended	July 7, 2023	Jul. 27
	80-11-1-.09	adopted	July 7, 2023	Jul. 27
	80-11-2-.01, 80-11-2-.03	amended	July 7, 2023	Jul. 27
	80-11-3-.01	amended	July 7, 2023	Jul. 27
	80-11-5-.04, 80-11-5-.09	amended	July 7, 2023	Jul. 27
	80-13-1-.01, 80-13-1-.10	amended	July 7, 2023	Jul. 27
	80-13-1-.14, 80-13-1-.15	adopted	July 7, 2023	Jul. 27
	80-14-1-.02, 80-14-1-.03	amended	July 7, 2023	Jul. 27
	80-14-3-.01	amended	July 7, 2023	Jul. 27
	80-14-4-.05	amended	July 7, 2023	Jul. 27
	80-14-6-.01 --- 80-14-6-.04	adopted	July 7, 2023	Jul. 27
150. RULES OF GEORGIA BOARD OF DENTISTRY	150-11-.01	amended	June 13, 2023	Jul. 3
	150-13-.02	amended	June 13, 2023	Jul. 3
375. RULES OF DEPARTMENT OF DRIVER SERVICES	375-3-3-.01	amended	June 15, 2023	Jul. 5
391. RULES OF GEORGIA DEPARTMENT OF NATURAL RESOURCES	391-4-2-.47	adopted	June 28, 2023	Jul. 18

Department	Rules List	Action	Filed	Effective
475. RULES OF STATE BOARD OF PARDONS AND PAROLES	475-3-.05	amended	June 11, 2023	Jul. 1
505. PROFESSIONAL STANDARDS COMMISSION	505-2-.141, 505-2-.142, 505-2-.149, 505-2-.194	adopted	June 9, 2023	Jul. 1
	505-3-.03, 505-3-.13	adopted	June 21, 2023	Jul. 1
	505-3-.14	amended	June 21, 2023	Jul. 1
	505-3-.19, 505-3-.48	adopted	June 21, 2023	Jul. 1
	505-3-.51	amended	June 21, 2023	Jul. 1
	505-3-.59	adopted	June 21, 2023	Jul. 1
	505-3-.66, 505-3-.76, 505-3-.77	amended	June 21, 2023	Jul. 1
	505-3-.82, 505-3-.96, 505-3-.100	adopted	June 21, 2023	Jul. 1
560. RULES OF DEPARTMENT OF REVENUE	560-7-8-.69	adopted	July 10, 2023	Jul. 30

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-.03. Criteria for bank holding companies may be found at Rule 80-6-1-.04. 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 covers credit union activities; Chapter 80-3 covers money transmitters, Chapter 80-4 covers check cashers; Chapter 80-6 covers holding companies; Chapter 80-7 covers foreign bank organizations; Chapter 80-11 covers mortgage lenders, brokers, and loan originators; Chapter 80-13 covers trust companies; and Chapter 80-14 covers installment lenders.

(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 Rule Chapter 80-5.

(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**,** 7-1-602**.**

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. August 1, 1974.

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

Repealed: New Rule of the same title adopted. F. July 13, 1981; eff. August 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. August 3, 1998.

Amended: F. July 12, 1999; eff. August 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.

Amended: F. Dec. 16, 2021; eff. Jan. 5, 2022.

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-1. BANKS

Subject 80-1-2. AGENCY RELATIONSHIPS OF FINANCIAL INSTITUTIONS; BANK SERVICE CONTRACTS

80-1-2-.01 General Provisions and Definitions

(1) A state bank may contract with another financial institution or a third party service provider to provide certain services in a principal-agent relationship, provided both parties comply with the applicable rules and regulations of the Department.

(2) Agency relationships shall comport with safety and soundness principles to protect the financial integrity of the bank and the accounts of its customers.

(3) Definitions:

(a) "Bank Service Contract" shall mean a contract executed by a bank and a third party, to provide financial services, whether direct or indirect, to the bank.

(b) "Third party service provider" shall mean any provider of financial services to a bank as authorized by O.C.G.A. § 7-1-72.

(4) This chapter is not intended to apply to non-banking related operational or administrative functions which do not tend to impact the safety and soundness of the bank or the accessibility to the Department of records.

Cite as Ga. Comp. R. & Regs. R. 80-1-2-.01

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-612**.**

HISTORY: Original Rule entitled "Bank Service Arrangement with Bank Service Corporation or Others" adopted. F. and eff. June 30, 1965.

Repealed: New Rule entitled "General Provisions and Definitions" adopted. F. June 9, 1972; eff. June 29, 1972.

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

Repealed: New Rule of same title adopted. F. Nov. 7, 1995; eff. Nov. 27, 1995.

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

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

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

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

Amended: F. July 7, 2023; eff. July 27, 2023.

80-1-2-.02 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 80-1-2-.02

AUTHORITY: O.C.G.A. § 7-1-61**.**

HISTORY: Original Rule entitled "Application for Permission to Perform Bank Services" adopted. F. June 9, 1972; eff. June 29, 1972.

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

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

Repealed: New Rule entitled "Direct Bank Services Subject to Agency Regulation" adopted. F. Nov. 7, 1995; eff. Nov. 27, 1995.

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

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

Repealed: F. July 7, 2023; eff. July 27, 2023.

80-1-2-.03 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 80-1-2-.03

AUTHORITY: O.C.G.A. § 7-1-61.

HISTORY: Original Rule entitled "Contracting to Perform or Have Performed Bank Services" adopted. F. June 9, 1972; eff. June 29, 1972.

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

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

Repealed: New Rule entitled "Application to Conduct Agency Relationship" adopted. F. Nov. 7, 1995; eff. Nov. 27, 1995.

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

Repealed: F. July 7, 2023; eff. July 27, 2023.

80-1-2-.04 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 80-1-2-.04

AUTHORITY: O.C.G.A. § 7-1-61**.**

HISTORY: Original Rule entitled "Review by Department of Agency Agreement" adopted. F. Nov. 7, 1995; eff. Nov. 27, 1995.

Repealed: F. July 7, 2023; eff. July 27, 2023.

80-1-2-.05 Bank Service Contracts: Requirements of Third Party Service Providers

(1) Each third party service provider that enters into a bank service contract with a state-chartered bank shall be subject to examination and regulation by the department as if the entity were a state financial institution, as authorized by O.C.G.A. § 7-1-72.

(2) In the event that a third party service provider has been examined by a federal agency that is a member of the Federal Financial Institutions Examination Council ("FFIEC"), or any successor entity, in the previous twenty-four (24) months and the department is provided a copy of the examination, the department shall accept the results of such examination in lieu of conducting its own examination. However, nothing contained herein, shall be construed as limiting or otherwise restricting the department from participating in such examination.

Cite as Ga. Comp. R. & Regs. R. 80-1-2-.05

AUTHORITY: O.C.G.A. § 7-1-61.

HISTORY: Original Rule entitled "Bank Service Contracts" adopted. F. Nov. 7, 1995; eff. Nov. 27, 1995.

Amended: Rule retitled "Bank and Credit Union Service Contracts: Requirements of Providers." F. July 28, 2003; eff. August 17, 2003.

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

Amended: New title, "Bank Service Contracts: Requirements of Third Party Service Providers." F. July 7, 2023; eff. July 27, 2023.

80-1-2-.06 Bank Service Contracts

(1) If a state-chartered bank is required to disclose a bank service contract to the Federal Deposit Insurance Corporation or the Board of Governors of the Federal Reserve System, a duplicate of such disclosure will simultaneously be submitted to the Department.

(2) A state-chartered bank entering into a bank service contract with a third party service provider must maintain the following information on file at the bank and shall not execute a contract with a third party service provider unless this information has been obtained.

(a) A copy of the contract under which the services are provided;

(b) A schedule of fees to be charged for each type of service to be performed;

(c) Written assurance from the third party service provider that:

1. The records of the bank for which the services are to be performed will be subject to examination and regulation by the department as if the records were maintained by the bank on its own premises,

2. The records of the bank in the service provider's possession shall be available to examiners promptly upon receipt of notice; and

3. The department shall have the authority to periodically review the internal routine and controls of the servicers to ascertain that the operations are being conducted in a sound manner in keeping with generally accepted banking procedures and requirements;

(d) A listing of all reports, and printouts which the third party service provider is offering the bank and the time required, after receipt of notice of examination, to provide those reports or information in readable form to the examiners;

(e) Evidence of financial stability, to include a copy of the third party service provider's most recent audit and financial statement, both of which should be aged no more than 18 months; and

(f) Biographical information on key officers may be desirable where a provider is not a publicly traded company.

(3) A state-chartered bank contracting with a third party service provider must employ good faith efforts to monitor the financial condition of the service provider and must notify the department immediately when it discovers or suspects that the servicer is insolvent or has suffered significant financial losses that threaten the continuing viability of the third party service provider.

Cite as Ga. Comp. R. & Regs. R. 80-1-2-.06

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-612**.**

HISTORY: Original Rule entitled "Application for Permission to Perform Indirect Bank Services" adopted. F. Nov. 7, 1995; eff. Nov. 27, 1995.

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

Amended: Rule retitled "Contracts for Direct or Indirect Bank Services." F. July 28, 2003; eff. August 17, 2003.

Amended: New title, "Bank Service Contracts." F. July 7, 2023; eff. July 27, 2023.

80-1-2-.08 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 80-1-2-.08

AUTHORITY: O.C.G.A. § 7-1-61**.**

HISTORY: Original Rule entitled "Severability" adopted. F. Nov. 7, 1995; eff. Nov. 27, 1995.

Repealed: F. July 7, 2023; eff. July 27, 2023.

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 counties, district, and municipalities of any state or territorial government of the United States.

1. The general obligations of counties, districts, and municipalities of any state or territorial government of the United States which is authorized to levy taxes may be held without limit.

2. Securities issued by counties, districts, and municipalities of any state or territorial government of the United States 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 without limit.

3. Revenue obligations of counties, districts, and municipalities of any state or territorial government of the United States 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 without limit.

4. In those instances where the repayment of revenue obligations is dependent upon rentals or other fees payable to a political subdivision located within the United States 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 located within the United States 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 O.C.G.A. § 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 O.C.G.A. § 7-1-285.

(2) Equity Securities.

Except as allowed by O.C.G.A. § 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 twenty-five (25) 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 the investing bank has analyzed and understands the underlying collateral characteristics of the investment; and

3. Is 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.

(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.

(e) Before the purchase of any asset-backed securities, the investing bank shall perform a due diligence suitability analysis to determine whether the asset-backed securities are suitable for purchase relative to the bank's asset liability position, sensitivity to market risk, and its liquidity exposure. Further, before the purchase of any asset-backed securities under subsection (c), the investing bank shall include in the due diligence suitability analysis an evaluation of whether the asset-backed securities are suitable for purchase relative to the bank's tolerance for credit risk. 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. The initial and subsequent documentation of the suitability analysis shall be in written form and maintained in the bank's files.

(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.

(a) 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.

(b) Notwithstanding the limitation in subparagraph (6)(a), a bank may invest in derivative instruments, including forwards and interest rate swaps, without the approval of the Department so long as the investment is solely for the purpose of managing interest rate risk. Such investment must be denominated in U.S. dollars, have a contract maturity of fifteen (15) years or less, and be based on domestic interest rates or the Secured Overnight Financing Rate (SOFR), or similar replacement rate for the U.S. dollar-denominated London Interbank Offered Rate (LIBOR). A bank must adhere to safe and sound banking practices in making such investments.

(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 O.C.G.A. § 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 O.C.G.A. § 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 including the institution's current assessment of the condition of the nonconforming security and supporting documentation that details the cause of the deterioration, severity of the deterioration, and resulting accounting treatment by the institution. 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**,** 7-1-288**.**

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. August 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. August 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.

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-1. BANKS

Subject 80-1-11. PUBLIC DISCLOSURE OF INFORMATION

80-1-11-.05 Annual Disclosure Statements by Banks

(a) Requirement of availability - Each bank shall make its annual disclosure statement available to requesters beginning not later than March 31 following its issuance or, if the bank or its holding company mails an annual report to its shareholders, beginning not later than five days after the mailing of such reports, whichever occurs first. A bank shall continually make a disclosure statement available until the disclosure statement for the succeeding year becomes available.

(b) Contents - The disclosure statement may, at the option of the bank, consist of the bank's entire Call Report for the relevant dates and periods. At a minimum, the statement must contain information comparable to that provided in the following Call Report schedules: Balance Sheet; Past Due and Nonaccrual Loans and Leases; Income Statement; Changes in Equity Capital; Charge-Offs and Recoveries and Changes in Allowances for Credit Losses.

(c) Notice - A notice, which the bank shall at all times display, shall be posted in the lobby of its main office and each branch office, informing its customers and general public that the annual disclosure statement may be obtained from the bank. The notice shall include at a minimum an address and telephone number to which the request should be directed. The first copy of the annual disclosure statement shall be provided to a requester free of charge.

(d) Delivery - Each bank shall, after receiving a request for an annual disclosure statement, promptly mail or otherwise furnish a statement to the requester.

Cite as Ga. Comp. R. & Regs. R. 80-1-11-.05

AUTHORITY: O.C.G.A. § 7-1-61**.**

HISTORY: Original Rule entitled "Request for Records" adopted. F. July 12, 1974; eff. August 1, 1974.

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

Repealed: F. July 13, 1981; eff. August 2, 1981.

Amended: New Rule entitled "Annual Disclosure Statements by Banks" adopted. F. Sept. 26, 1995; eff. Oct. 16, 1995.

Amended: F. July 22, 1999; eff. August 1, 1999.

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

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-2. CREDIT UNIONS

Subject 80-2-1. BOOKS AND RECORDS

80-2-1-.01 General Requirements for Accounting Procedures

(1) A credit union is required to maintain its books of account in accordance with Generally Accepted Accounting Principles, including a complete and accurate account of:

(a) All of its assets, whether in its name or in the name of another person;

(b) All of its liabilities, its borrowings, and any security interests in its assets; and

(c) All of its income, expenses, capital gains and losses.

(2) Each credit union shall, by the end of each month, prepare a financial statement reflecting its position and operations of the preceding month. This statement, to be prepared from the accounts of the general ledger of the credit union, shall include a complete report of the credit union's earnings, setting forth in detail all items of income and expense. In the event the credit union shall become aware of a misstatement in a financial statement, then the credit union must amend the financial statement in a timely manner. A notice, which the credit union shall at all times display, shall be posted in a public area of its main office and each branch office as well as any credit union website, informing its members that the monthly financial statement may be examined, upon request of a member, at each office of the credit union and/or on the credit union's website. The notice shall include at a minimum, directions as to who to contact to view the statement.

(3) Each credit union shall file with the Department a complete report of its condition as of the last business day in March, June, September and December of each calendar year and at such other dates as the Commissioner may determine. Such reports shall be filed no more than thirty (30) days after the close of the applicable accounting period. Each such report shall be on forms required by the Department and shall be attested as provided on the form.

Cite as Ga. Comp. R. & Regs. R. 80-2-1-.01

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-663**.**

HISTORY: Original Rule entitled "Retention of Records of Credit Unions" adopted. F. and eff. June 30, 1965.

Repealed: New Rule entitled "General Requirements for Accounting Procedures" adopted. F. June 17, 1976; eff. July 7, 1976.

Amended: F. July 13, 1981; eff. August 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 28, 2003; eff. August 17, 2003.

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

Amended: F. July 7, 2023; eff. July 27, 2023.

80-2-1-.06 Notification of Reportable Cyber Incident

Pursuant to 12 C.F.R. Part 748 credit unions are required to notify the appropriate federal regulator no later than 72 hours after the credit union determinates that a cyber incident, which rises to the level of a reportable cyber incident, has occurred. A reportable cyber incident is an occurrence identified in 12 CFR §748.1. If a cyber incident is required to be reported under federal law, then a duplicate of such report, whether provided via email, telephone, or otherwise, will be submitted simultaneously to the Department.

Cite as Ga. Comp. R. & Regs. R. 80-2-1-.06

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-663**.**

HISTORY: Original Rule entitled "Standard Form Bylaws" adopted. F. Oct. 20, 1981; eff. Nov. 9, 1981.

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

Adopted: New Rule entitled "Notification of Reportable Cyber Incident." F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-2. CREDIT UNIONS

Subject 80-2-3. SHARES, DEPOSITS AND DIVIDENDS

80-2-3-.01 Certificate of Deposit

(1) Certificates of Deposit Generally--Any credit union may, from time to time as determined by its board of directors, issue deposit contracts in the form of Certificates of Deposit whereby the credit union agrees to pay a guaranteed rate of interest to the depositor which may be less than, equal to, or greater than any rate paid in the past or anticipated to be paid in the future on regular share deposits of members, provided the terms of such contracts are in compliance with the provisions of this regulation.

(2) Minimum Contract Terms and Standards:

(a) Monies accepted by a credit union pursuant to the authority of paragraph (1) of this regulation shall be considered to be a deposit subject to the provisions of the Financial Institutions Code of Georgia under the following conditions:

1. Certificates of deposit are issued only to members of the issuing credit union or to another financial institution consistent with O.C.G.A. § 7-1-650;

2. Certificates of deposit shall have a fixed maturity, and shall disclose their terms, including any automatic renewal provisions as established by the board of directors;

3. Funds deposited thereunder shall be subject to penalty provisions for withdrawal prior to maturity;

4. Certificates of deposit shall be non-negotiable and nontransferable;

5. The rates of interest payable under the certificate of deposit contract shall be approved by the Board of Directors of the credit union;

6. Requirements set forth in sections (2)(a)2., (2)(a)3. and 2(a)4. of this rule shall be disclosed to the depositor along with the date of maturity, interest rate, penalties for early withdrawal, and principal amount of the certificate of deposit.

(b) Every credit union issuing Certificates of Deposit shall maintain a record of every certificate of deposit issued. The record may be in the form of a register, ledger, or copy of the certificate by other technological means available and shall show:

1. The name of the registered owner of the certificate of deposit;

2. The amount of the certificate of deposit;

3. The maturity of the certificate of deposit; and

4. The rate of interest payable on the certificate of deposit.

(c) Interest may be payable at such intervals in accordance with the contract as determined by the board of directors but not more frequently than monthly except for the payment of accrued interest at the time of redemption of the

certificate of deposit. Interest may be paid by check or other electronic means, by deposit to the member's regular share account, or added to the principal value of the certificate of deposit.

Cite as Ga. Comp. R. & Regs. R. 80-2-3-.01

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-650**,** 7-1-663**.**

HISTORY: Original Rule entitled "Member Deposit Certificates" adopted as ER. 80-2-3-0.1-.01. F. and eff. August 1, 1973.

Amended: Permanent Rule of same title adopted. F. Nov. 27, 1973; eff. Dec. 17, 1973.

Amended: ER. 80-2-3-0.2-.01 adopted. F. and eff. April 8, 1974.

Amended: Permanent Rule adopted. F. Apr. 29, 1974; eff. May 19, 1974.

Amended: F. Nov. 15, 1974; eff. Dec. 5, 1974.

Amended: ER. 80-2-3-0.4-.01 adopted. F. and eff. December 9, 1976.

Amended: Permanent Rule adopted. F. Jan. 21, 1977; eff. Feb. 10, 1977.

Amended: ER. 80-2-3-0.6-.01 adopted. F. and eff. August 31, 1978.

Amended: Permanent Rule adopted. F. Nov. 8, 1978; eff. Nov. 28, 1978.

Amended: F. Mar. 18, 1980; eff. Apr. 7, 1980.

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

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

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

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

Repealed: New Rule entitled "Certificate of Deposit" adopted. F. Aug. 15, 2005; eff. Sept. 4, 2005.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-2-3-.04 Departmental Approval of Dividends

(1) A credit union proposing to pay dividends that total less than 50% of its net income of the preceding calendar year as reported in the Statement of Income and Expense in the December 31st Call Report may do so without the prior written approval of the department; provided that:

(a) Total adversely classified assets at the most recent examination of the credit union, the conclusions of which may have been presented to the Board of Directors, do not exceed eighty (80) percent of net worth as reflected at such examination; and

(b) The net worth ratio after dividend distribution shall not be less than seven (7) percent.

(2) If a request for approval of the payment of a dividend is required by this Rule, then such requests must be submitted on forms provided by the department.

(3) Approval of dividends shall be based upon the following considerations:

(a) Adequacy of current year earnings to fund the proposed dividends;

(b) Adequacy of reserves;

(c) Adequacy of undivided earnings from previous fiscal years to maintain a level of capital commensurate with asset growth, net worth requirements in accordance with applicable law and regulations, and adequate funding of ongoing operations;

(d) Effects of any dividend reduction on cash flow and liquidity; and

(e) Asset condition of the credit union.

Cite as Ga. Comp. R. & Regs. R. 80-2-3-.04

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-660**,** 7-1-663**.**

HISTORY: Original Rule entitled "Departmental Approval of Dividends" was filed on July 13, 1981; effective August 2, 1981.

Amended: Filed August 17, 1983; effective September 6, 1983.

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

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

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-2. CREDIT UNIONS

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

80-2-4-.01 Investment of Credit Union Funds in Other Financial Institutions

(1) No credit union shall deposit its funds in an amount exceeding twenty-five (25) percent of the net worth of the credit union in any one bank, savings and loan association, or other credit union that is less than adequately capitalized as defined by 12 CFR §324.403, 12 CFR §702.102, or 12 CFR §704.4 as applicable, unless the credit union obtains prior written approval from the Department.

(2) A credit union's policies and procedures shall take into account credit and liquidity risks, including operational risks, in selecting financial institutions in which to deposit funds and terminating those relationships.

(3) Where deposits at a financial institution exceed twenty-five percent of the credit union's net worth, the credit union's policies and procedures shall require periodic reviews of the financial condition of the financial institution and shall take into account actions to be taken in the event of any deterioration in the financial condition of the financial institution. Factors bearing on the financial condition of the financial institution include the capital level, level of nonaccrual and past due loans and leases, level of earnings, and other factors affecting its financial condition. Where public information on the financial condition of the financial institution is available, a credit union may base its review of the financial condition of the financial institution on such information and is not required to obtain non-public information for its review.

(4) Where the deposits at a financial institution exceed twenty-five percent of the credit union's net worth or the financial condition of the financial institution creates a significant risk that the financial institution may not be able to honor a withdrawal of the credit union's deposits, a credit union's policies and procedures shall limit the credit union's exposure to the financial institution, either by the establishment of internal limits or by other means. Limits shall be consistent with the risk undertaken, considering the financial condition of the credit union as well as the financial condition of the financial institution holding the credit union's deposits. Limits may be fixed as to amount or flexible, based on such factors as the financial condition of the credit union or the financial institution. A credit union shall monitor its deposits at a financial institution to ensure that its deposits ordinarily do not exceed the credit union's internal limits except for occasional excesses resulting from unusual market disturbances, market movements favorable to the credit union, increases in activity, operational problems, or other unusual circumstances. Generally, monitoring may be done on a retrospective basis. The level of monitoring required depends on the extent to which the amount of the deposits approaches the credit union's internal limits and the financial condition of the financial institution. A credit union shall establish appropriate procedures to promptly address deposits in excess of its internal limits.

(5) The policies and procedures established under this rule shall be reviewed and approved by the credit union's board of directors at least annually.

(6) If the funds a credit union has deposited in a financial institution are fully and continuously insured by federal deposit insurance, then the credit union does not have to develop the policies and procedures required by this rule.

Cite as Ga. Comp. R. & Regs. R. 80-2-4-.01

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-663**.**

HISTORY: Original Rule entitled "Investment of Credit Union Funds" adopted. F. May 10, 1976; eff. May 30, 1976.

Repealed: New Rule entitled "Investment of Credit Union Funds in Other Financial Institutions" adopted. F. Oct. 22, 2001; eff. Nov. 11, 2001.

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

Amended: New title, "Deposit of Credit Union Funds in Other Financial Institutions." F. July 7, 2023; eff. July 27, 2023.

80-2-4-.02 Investment of Credit Union Funds in Fixed Assets; Requirements

(1) The aggregate investment by a credit union in fixed assets shall not exceed sixty (60) percent of net worth except that a greater sum may be invested with the prior approval of the Department.

(2) In the event a credit union invests in a leasehold in order to occupy the premises for the transaction of its business and the investment does not cause the credit union to exceed the fixed asset limitation set forth in paragraph (1), the credit union shall provide the Department with written notification of the investment.

(3) Letter form applications seeking approval to invest in fixed assets in an amount in excess of sixty (60) percent of net worth, must provide for an orderly plan of restoring the fixed asset investment to the sixty (60) percent limitation within not more than five (5) years.

(4) Nothing herein shall be construed as permitting a credit union to acquire real estate without the prior approval of the Department or as expressly provided in Rule 80-2-4-.04.

Cite as Ga. Comp. R. & Regs. R. 80-2-4-.02

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-663**.**

HISTORY: Original Rule entitled "Investment of Credit Union Funds in Fixed Assets; Letter Form Application and Regular Form Application; Requirements" adopted. F. Oct. 22, 2001; eff. Nov. 11, 2001.

Amended: New title "Investment of Credit Union Funds in Fixed Assets; Requirements." F. June 29, 2017; eff. July 19, 2017.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-2-4-.03 Investment of Credit Union Funds in Subsidiaries

(1) Unless otherwise precluded by law or regulations, a credit union may acquire and hold for its own account shares of stock or interest in a subsidiary or affiliate corporation or limited liability company engaged in the following functions or activities that do not pose undue risk to the safety and soundness of the credit union and that are consistent with the objectives of O.C.G.A. § 7-1-3. The functions or activities that the credit union subsidiary or affiliate is authorized to conduct include, but are not limited to:

(a) offering third party payment services;

(b) holding real estate;

(c) acting as a financial planner or investment adviser;

(d) offering a full range of investment products;

(e) exercising powers incidental to financial activities as provided in O.C.G.A. § 7-1-650; and

(f) exercising powers granted by Department rules or powers determined by the Commissioner to be financial in nature or incidental to the provision of financial services.

(2) O.C.G.A. § 7-1-650(6) contemplates that a credit union can have a separate subsidiary or affiliate to exercise powers that are express or incidental to the credit union's authority with the approval of the Department. Subject to certain investment limitations for credit unions, the subsidiary or affiliate can conduct such powers as may be financial in nature or incidental or complimentary to the provision of financial services. Prior to the subsidiary or affiliate engaging in any functions or activities that a credit union is authorized to engage, the credit union must submit a letter form application to the Department describing the proposed activity, detailing the activity's relationship to the business of the credit union, and setting forth the provisions that will be implemented in order to mitigate any related risks. 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.

(3) If more than one credit union has an ownership interest in such subsidiary or affiliate, the credit union that has the largest percentage ownership in the subsidiary or affiliate must submit the application to the Department. In the event the largest credit union percentage ownership in the subsidiary or affiliate is held by multiple credit unions, then only one credit union is required to submit an application to the Department.

(4) Notwithstanding paragraph (2) of this Rule, if a credit union owns less than ten (10) percent of the subsidiary or affiliate and the ownership interest in the subsidiary or affiliate is less than ten (10) percent of the credit union's net worth, then the credit union does not need to obtain approval from the Department for such investment. Further, notwithstanding the requirement in paragraph (3) of this Rule that the credit union with the largest percentage ownership must submit the application to the Department, if the credit union with the largest percentage ownership does not have to obtain approval from the Department pursuant to this paragraph, then the credit union, if any, that has an ownership interest in the subsidiary or affiliate that is ten (10) percent or more of the credit union's net worth must submit the required application under paragraph (3) to the Department.

(5) For purposes of this rule only, "affiliate" means a corporation or limited liability company, that a credit union has less than a majority ownership interest.

Cite as Ga. Comp. R. & Regs. R. 80-2-4-.03

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-663**.**

HISTORY: Original Rule entitled "Investment of Excess Funds in Participation Loans" adopted. F. Oct. 22, 2001; eff. Nov. 11, 2001.

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

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

Adopted: New Rule entitled "Investment of Credit Union Funds in Subsidiaries." F. Jun. 10, 2014; eff. Jun. 30, 2014.

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

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

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

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

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

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

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

1. The credit union must be well capitalized as defined by the capital requirements of the Department and the NCUA;

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

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

4. Total investments in fixed assets do not exceed sixty (60) percent of net worth.

(b) The expedited application must include the following:

1. The physical address of the branch office;

2. A statement regarding whether or not an insider is involved in the acquisition, construction, or leasing of the property;

3. The anticipated fixed asset investment for this proposal and whether the credit union will be in compliance with Rule 80-2-4-.02; and

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

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

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

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

1. Safety and soundness concerns of the Department dictate a more comprehensive review;

2. Any material adverse comment is received by the Department;

3. Other supervisory concerns, legal issues, or policy issues come to the attention of the Department;

4. If applicable, any acquisition of fixed assets would cause the institution to exceed the fixed asset limitation; or

5. Any other good cause exists for denial or removal.

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

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

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-663**,** 7-1-665**.**

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

Amended: New title, "Application Requirements for Branch Offices." F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-2. CREDIT UNIONS

Subject 80-2-7. CREDIT UNION SERVICE CONTRACTS

80-2-7-.01 General Provisions and Definitions

(1) A state credit union may contract with another financial institution or a third party service provider to provide certain services in a principal-agent relationship, provided both parties comply with the applicable rules and regulations of the Department.

(2) Agency relationships shall comport with safety and soundness principles to protect the financial integrity of the credit union and the accounts of its members.

(3) Definitions:

(a) "Credit Union Service Contract" shall mean a contract executed by a credit union and a third party service provider to provide financial services, whether direct or indirect, to the credit union.

(b) "Third party service provider" shall mean any provider of financial services to a credit union as authorized by O.C.G.A. § 7-1-72.

(4) This chapter is not intended to apply to non-banking related operational or administrative functions which do not tend to impact the safety and soundness of the credit union or the accessibility to the Department of records.

Cite as Ga. Comp. R. & Regs. R. 80-2-7-.01

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-663**.**

HISTORY: Original Rule entitled "General Provisions and Definitions" adopted. F. Nov. 8, 1978; eff. Nov. 28, 1978.

Amended: Rule retitled "Definitions." F. July 28, 2003; eff. August 17, 2003.

Amended: New title, "General Provisions and Definitions." F. July 7, 2023; eff. July 27, 2023.

80-2-7-.02 Credit Union Service Contracts

(1) If a state-chartered credit union is required to disclose a credit union service contract to the National Credit Union Administration, a duplicate of such disclosure will simultaneously be submitted to the Department.

(2) A state-chartered credit union entering into a credit union service contract with a third party service provider must maintain the following information on file at the credit union and shall not execute a contract with a third party service provider unless this information has been obtained:

(a) A copy of the contract under which the services are provided;

(b) A schedule of fees to be charged for each type of service to be performed;

(c) Written assurance from the third party service provider that:

1. The records of the credit union for which the services are to be performed will be subject to examination and regulation by the department as if the records were maintained by the credit union on its own premises;

2. The records of the credit union in the service provider's possession shall be available to examiners promptly upon receipt of notice;

3. The department shall have the authority to periodically review the internal routine and controls of the service provider to ascertain that the operations are being conducted in a sound manner in keeping with generally accepted credit union procedures and industry standards;

(d) A listing of all reports and printouts which the third party service provider is offering the credit union and the time required, after receipt of notice of examination, to provide those reports in readable form to the examiners; and

(e) Evidence of financial stability to include a copy of the third party service provider's most recent audit and financial statement, both of which should be aged no more than 18 months. This is a continuous requirement.

(3) A state-chartered credit union contracting with a third party service provider must employ good faith efforts to monitor the financial condition of the service provider and must notify the department immediately when it discovers or suspects that the service provider is insolvent or has suffered significant financial losses that threaten the continuing viability of the third party service provider.

Cite as Ga. Comp. R. & Regs. R. 80-2-7-.02

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-663**.**

HISTORY: Original Rule entitled "Application for Permission to Perform Credit Union Services" adopted. F. Nov. 8, 1978; eff. Nov. 28, 1978.

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

Amended: Rule retitled "Contracts for Credit Union Services." F. July 28, 2003; eff. August 17, 2003.

Amended: New title, "Credit Union Service Contracts." F. July 7, 2023; eff. July 27, 2023.

80-2-7-.03 Credit Union Service Contracts: Requirements of Third Party Service Providers

(1) Each third party service provider that enters into a credit union service contract with a state-chartered credit union shall be subject to examination and regulation by the department as if the entity were a state financial institution, as authorized by O.C.G.A. § 7-1-72.

(2) In the event that a third party service provider has been examined by a federal agency that is a member of the Federal Financial Institutions Examination Council ("FFIEC"), or any successor entity, in the previous twenty-four (24) months and the department is provided a copy of the examination, the department shall accept the results of such examination in lieu of conducting its own examination. However, nothing contained herein, shall be construed as limiting or otherwise restricting the department from participating in such examination.

Cite as Ga. Comp. R. & Regs. R. 80-2-7-.03

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-663**.**

HISTORY: Original Rule entitled "Contracting to Perform or Have Performed Credit Union Services" adopted. F. Nov. 8, 1978; eff. Nov. 28, 1978.

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

Repealed: Rule reserved. F. July 28, 2003; eff. August 17, 2003.

Adopted: New Rule entitled "Credit Union Service Contracts: Requirements of Third Party Service Providers." F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-2. CREDIT UNIONS

Subject 80-2-9. INVESTMENT SECURITIES

80-2-9-.01 Investment Securities

(1) Subject to such further restrictions and limitations as its board of directors may set forth in this investment policy, a credit union may purchase, sell and hold securities:

(a) Without limitation if such securities are:

1. The general obligations of the United States Government or any agency or instrumentality thereof;

2. Guaranteed as to principal and interest by the United States Government or any agency or instrumentality thereof; or

3. Separate Trading of Registered Interest and Principal of Securities which are offered exclusively in book entry form, are direct obligations of the United States, and are issued under Chapter 31, Title 13 USC.

(b) Without limitation if such securities are:

1. The 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 states or territorial governments or any agency of such governments;

3. The general obligations of counties, districts, and municipalities of any state or territorial government of the United States which is authorized to levy taxes;

4. Securities issued by counties, districts, and municipalities of any state or territorial government of the United States 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; or

5. Revenue obligations of counties, districts, and municipalities of any state or territorial government of the United States 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.

(c) Up to fifteen (15) percent of the net worth of the credit union if the securities are:

1. Revenue obligations issued by a political subdivision located within the United States where the repayment is dependent upon rentals or other fees payable to such political subdivision by a non-governmental unit, such as in the case of industrial revenue bonds. In such cases, the obligor for the purpose of applying legal limitations shall be the non-governmental unit responsible for the payment of such rentals or other fees and any guarantor of such payments;

2. Reserved;

3. Reserved; and

4. The securities are the securities of, or other interests in, any open-end or closed-end management type investment fund or investment trust which:

(i) Is registered under the Investment Company Act of 1940,

(ii) Expressly requires that any changes in the investment objectives, fundamental operating policies, and limitations of the fund or trust must receive prior approval by a majority of the shareholders authorized to vote on such matters,

(iii) Limits the investment portfolio of such investment fund or investment trust to:

(I) Obligations otherwise authorized under subparagraphs (1)(a)1., (1)(a)2., and (1)(a)3. of this Rule;

(II) Repurchase agreements, which are fully collateralized by securities authorized in subparagraph (1)(a)1., (1)(a)2., and (1)(a)3. of this Rule, and where the fund or trust takes delivery of such collateral either directly or through an authorized custodian; or

(III) Certificates of deposit issued by financial institutions insured by an instrumentality of the United States government, and;

(iv) Does not:

(I) Except to the extent authorized in subparagraph (1)(a)3. of this Rule, acquire investments in the form of stripped or detached interest obligations associated with any security which otherwise constitutes a permissible investment under the provisions of this Rule;

(II) Engage in the purchase or sale of interest rate futures contracts;

(III) Purchase securities on margin, make short sales of securities or maintain a short position; or

(IV) Otherwise engage in futures, forwards or options transactions, except, however, that forward commitments may be entered into for the express purpose of acquiring securities on a when-issued basis;

5. Bankers Acceptances and Subordinated Securities issued by financial institutions domiciled in Georgia or by financial institutions affiliated with a financial institution domiciled in Georgia;

6. Commercial paper issued by corporations domiciled within the United States which are rated in the four highest rating categories by a nationally recognized rating service;

7. Other securities issued by political subdivisions located within the United States which are rated in the four highest rating categories by a nationally recognized rating service;

8. Credit unions may invest in such other investment securities as may be authorized for federally chartered credit unions subject to the prior approval of the Department; or

9. Such other securities as the Department may approve and subject to such limitations as the Department may specify upon a finding that the securities are marketable under ordinary circumstances, with reasonable promptness, at a fair value.

(2) In the case of a corporate credit union, the Department may approve investments of the type described in subparagraph (1)(c) of this rule which may exceed fifteen (15) percent of net worth but in no event exceed 25% of net worth. Prior approval is required and may be subject to certain conditions of approval.

(3) Reserved.

(4) Asset backed securities repayable in both interest and principal which are issued under:

(a) Governmentally sponsored programs which are fully collateralized by obligations fully guaranteed as to principal and interest by a governmental entity may be purchased to the same extent as direct obligations of the governmental entity granting the guarantee; and

(b) Private programs which are fully collateralized by obligations fully guaranteed as to principal and interest by a governmental entity may be purchased to the same extent as direct obligations of the governmental entity granting the guarantee.

(5) (a) Except for those investments specifically authorized in subparagraph (1)(a)3. of this Rule, 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 credit unions demonstrating technical expertise and policies sufficient to promote safe and sound use of such investments as part of prudent investment strategies.

(b) Notwithstanding the limitation in subparagraph (5)(a), a credit union may invest in derivative instruments, including forwards and interest rate swaps, without the approval of the Department so long as the investment is solely for the purpose of managing interest rate risk. Such investment must be denominated in U.S. dollars, have a contract maturity of fifteen (15) years or less, and be based on domestic interest rates or the Secured Overnight Financing Rate (SOFR), or similar replacement rate for the U.S. dollar-denominated London Interbank Offered Rate (LIBOR). A credit union must have technical expertise, sufficient policies and procedures, and adhere to safe and sound practices in making such investments.

(6) Subordinated debt is a security issued by a credit union after approval by the National Credit Union Administration, which may qualify as capital under federal regulatory capital guidelines. The subordinated debt must be scrutinized under the suitability analysis in this rule as if it was a loan being underwritten by the purchasing credit union. Subordinated debt is an authorized investment for a state credit union subject to compliance with the terms and conditions contained in this paragraph.

(a) Notwithstanding any provision in this rule to the contrary, the credit union's aggregate investment in subordinated debt shall not exceed the credit union's policy limits or twenty-five percent of net worth, 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.

(b) 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 (c) of this rule.

(c) Before the purchase of subordinated debt, the credit union shall perform a due diligence suitability analysis to determine whether the subordinated debt is suitable for purchase relative to the credit union'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 financial statements and cash flow analysis, sufficient to determine that the issuer is creditworthy and thus has the ability to meet the debt repayment schedule;

2. A review of the subordinated debt plan submitted by the issuing credit union to the National Credit Union Administration;

3. An analysis of the quality, capability, and leadership expertise of the management of the issuing credit union;

4. 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;

5. The documentation of the suitability analysis shall be in written form and maintained in the credit union's files; and

6. A periodic update of the suitability analysis shall be performed by the credit union at least as frequently as annually during the term of the investment.

(d) The credit union shall obtain and monitor the securities' market values on an ongoing basis.

(e) The credit union'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.

(7) Department Rule 80-2-4-.03(1) authorizes credit unions to obtain shares of stock or interests in certain subsidiary or affiliates. A credit union may invest in such subsidiary or affiliate without the approval of the Department if it owns less than ten (10) percent of the subsidiary or affiliate and the ownership interest in the subsidiary or affiliate is less than ten (10) percent of the credit union's net worth. However, in the event the credit union wishes to have an ownership interest of ten (10) percent or more in the subsidiary or affiliate or an ownership interest in the subsidiary or affiliate that is ten (10) percent or more of the credit union's net worth, then it must obtain prior approval from the Department pursuant to subparagraph (1)(c)8. of this Rule.

(8) In the event a credit union's investment in securities no longer conforms to this Rule but conformed when the investment was originally made, the credit union 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 credit union wishes to hold the nonconforming investment, the credit union must submit a letter form application to the Department including the institution's current assessment of the condition of the nonconforming security and supporting documentation that details the cause of the deterioration, severity of the deterioration, and resulting accounting treatment by the institution. 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.

(9) A credit union 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. 80-2-9-.01

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-663**.**

HISTORY: Original Rule entitled "Investment Securities" adopted. F. Oct. 12, 1989; eff. Nov. 1, 1989.

Amended: F. Jul. 7, 1994; eff. July 27, 1994.

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

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

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

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

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-2. CREDIT UNIONS

Subject 80-2-12. CREDIT UNION LOANS

80-2-12-.02 Real Estate Loans

(1) A real estate loan shall be any loan secured by real estate where the credit union relies upon such real estate as the primary security for the loan. If the proceeds of the loan are used for the purchase of the real estate pledged, the loan will be presumed to be a real estate loan. Where the credit union relies substantially upon other factors, such as the general credit standing of the borrower, guaranties, or security other than real estate, the loan does not constitute a real estate loan, although as a matter of prudent underwriting it may also be secured by real estate, provided:

(a) Current credit information on the borrower and/or the guarantors is maintained to sufficiently show the credit worthiness of the borrower or guarantors is adequate to support the debt; and

(b) The other collateral is properly pledged to the credit union, protected by adequate hazard insurance, and supported by a statement of appraised or estimated value.

(2) A loan may be secured by a first lien although subordinate to another lien if:

(a) The credit union takes obligations of the borrower in an amount equal to the debt outstanding on the prior mortgage obligation plus the amount secured by such credit union's lien; and

(b) The credit union may at any time effect payment of the prior lien. In such case the credit union may require the borrower to make all mortgage payments to such credit union, with that credit union servicing the prior lien from such payments, provided that:

1. Where such "wrap around" arrangements are made, the credit union will obtain a statement from the borrower and the holder of the first lien that no further advances will be made to the borrower by the first lien holder and subject to its lien without the prior consent of the credit union, and that

2. The credit union may repay the first lien at its option with no penalty or a stated prepayment penalty.

(3) Conditions common to all real estate loans as to legal requirements and technical aspects shall be met, including but not limited to evidence of title search, recordation, an independent written appraisal or, in the alternative, a written estimate of market value in conformity with 12 CFR 722.3 (hereinafter "estimate"), and adequate insurance protection upon the insurable improvements with loss payable clause to the credit union. The lack of the foregoing technical requirements, while causing the loan to be technically defective, shall not be cause to consider the loan as nonconforming and in violation of law unless the total aggregate borrowings by the borrower exceed the unsecured lending limits of O.C.G.A. § 7-1-658, in which case the real estate collateral will not contribute to the "ample security" of the line.

(4) Interpretations of provisions within the statute:

Nonamortized commercial real estate loans shall not exceed seventy-five percent (75%) of the fair market value of the property pledged, such loans and renewals thereof may be made payable on demand, or on demand after a specified future date, but no such loans or renewals may be made or held for a period in excess of five years, after which time sufficient principal payments must be made on a regular basis to amortize the loan.

(5) Other exemptions from the limitations as to loan to value ratios and requirements for first lien are as follows:

(a) Loans to the extent secured in whole or in part by guarantees or commitments to take over, insure, participate in, or purchase the same, made by any governmental agency of the United States or entities sponsored by the United States, including corporations wholly owned either directly or indirectly by the United States.

(b) Loans which are fully guaranteed or insured by this State or by a State Authority.

(c) Loans secured in whole or in part by real estate occupied by the borrower for residential purposes, provided the credit is extended for purposes other than acquisition of the property and the aggregate outstanding debt secured by the property does not exceed the appraised value of the property as established by appraisal or estimate plus reasonable estimated values for other collateral held against the total indebtedness.

(d) Commercial loans made for operating funds, working capital, or similar purposes, (other than the purchase of, investment in, or development of real estate) predicated upon the credit standing of the borrower or endorser, guarantor or co-maker, or other such security, but on which real estate collateral (including second mortgages) is taken as precautionary measure against possible contingencies may be exempt from the restrictions and limitations imposed upon real estate loans, provided such loans are supported (in addition to adequate credit information and/or collateral documents) by a general purpose statement signed by the borrower or by a credit memorandum signed by a loan officer, stating the purpose for which the loan is made and sufficient to indicate the exemption is valid.

(e) Loans representing the sale by the credit union of other real estate acquired for debts previously contracted shall be exempt from the limitations as to property values and membership requirements exempted by O.C.G.A. § 7-1-650(9), but shall be subject to all other requirements of this regulation, provided that the amount so financed shall not be for a greater sum than the credit union's investments in such property.

(f) Loans which, when made, were either unsecured or secured by personalty, but which are now secured in whole or in part by liens on real estate taken in order to prevent loss on a debt previously contracted.

(g) Amortized loans in excess of ninety-five percent (95%) of fair market value, but not more than one hundred percent (100%) of fair market value, where not less than twenty percent (20%) of the outstanding principal balance on the loan is insured or a commitment is made to insure for the first ten (10) years of the loan by a mortgage guaranty insurance company licensed to do business in this State.

(h) Temporary loans maturing in not more than one year made for the purpose of financing the acquisition of single-family, residential property to be used as the principal residence of the borrower and where the aggregate total of all liens against the property does not exceed the purchase price of such property; provided, such loan is to be repaid from the sale of the borrower's former principal residence and the proceeds in excess of amounts owed against the former residence and costs of sale are assigned to the credit union.

(6) All construction and development loans made or held by a credit union shall be exempt from the state loan to value limitations of this statute when made to comply with the following conditions:

(a) Loans having maturities not to exceed sixty (60) months may be made to finance the construction of industrial or commercial buildings where there is a valid and binding agreement entered into by a financially responsible lender to advance the full amount of the credit union's loan upon completion of the buildings.

(b) Loans having maturities not to exceed twenty-four (24) months may be made for residential construction or development purposes where the credit union holds a firm (or conditional) commitment to guarantee or insure from any instrumentality or corporation wholly-owned by the United States or by any Authority of this State as indicated in Rule 80-2-12-.02(5)(a) and (b) of this Rule, or where there is a take-out agreement by any financially responsible lender to advance the full amount of the credit union's loan upon completion of the dwelling.

(c) Temporary construction or development loans may be made by a credit union for a period not to exceed sixty (60) months where the loan is made to finance the construction of residential development which will exceed nine (9) units or industrial or commercial buildings, or for a period not to exceed twenty-four (24) months where the loan is made to finance construction of nine (9) or less residential units or farm buildings or to improve and develop land

preliminary to such construction, without a prior commitment to guarantee or insure or take-out agreement by an instrumentality or corporation wholly-owned by the United States or of this State or any other financially responsible lending agency. The parties must actually intend the loan to be paid off or refinanced by a purchaser within the specified maturities and the lots, when development is residential, must be released periodically during the development of land for such purposes, and pro rata reductions must be made in the principal of the debt. All such temporary construction and development loans must be supported by a statement of purpose or intent, and if held beyond the construction or development periods, must be made to conform to the seventy-five percent (75%) and ninety-five percent (95%) limitations; otherwise, they will be held to be nonconforming real estate loans.

For purposes of this Rule, 75% and 95% limitations are defined as loans for not more than 75 percent of the fair market value of the real estate in the case of a single maturity loan, or for not more than 95 percent of the fair market value of the real estate in the case of loans that must be regularly amortized.

(d) Commitments to guarantee, insure or purchase must be currently valid, and maturities of the loans may not be extended or loans held beyond the periods stipulated above.

(7) Except as otherwise provided in law or regulations, credit unions may not acquire directly or indirectly an ownership interest in real estate without the prior written approval of the Department.

Cite as Ga. Comp. R. & Regs. R. 80-2-12-.02

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-663**,** 7-1-650**.**

HISTORY: Original Rule entitled "Real Estate Loans" adopted. F. Aug. 15, 2007; eff. Sept. 4, 2007.

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

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

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

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

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

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

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

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

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

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

(c) Consistent with safe and sound banking practices.

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

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

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-663**,** 7-1-650**.**

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

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

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-3. MONEY TRANSMISSION

Subject 80-3-1. DISCLOSURES, LOCATIONS, AUTHORIZED AGENTS, AND CUSTOMER INFORMATION

80-3-1-.01 Definitions, Activities, and Locations

(1) For purposes of this Rule Chapter and Rule 80-5-1-.02(1), the terms that are defined in O.C.G.A. § 7-1-680 shall have the identical meaning.

(2) "Outstanding money transmission obligations" shall be established and extinguished in accordance with applicable state law and shall mean:

(a) Any payment instrument or stored value issued or sold by the licensee to a person located in the United States or reported as sold by an authorized agent of the licensee to a person that is located in the United States that has not yet been paid or refunded by or for the licensee, or escheated in accordance with applicable abandoned property laws; or

(b) Any money received for transmission by the licensee or an authorized agent in the United States from a person located in the United States that has not been received by the payee, refunded to the sender, or escheated in accordance with applicable abandoned property laws.

(c) For purposes of this term, "in the United States" shall include, to the extent applicable, a person in any state, territory, or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico; or a U.S. military installation that is located in a foreign country.

(3) O.C.G.A. § 7-1-681 provides that no person shall engage in money transmission in this state without a license unless such person is exempt from the requirements of licensure. For a transaction requested in person, "in this state" means at a physical location within this state. For a transaction requested electronically or by telephone, the provider of money transmission may determine if the person requesting the transaction is "in this state" by relying on information provided by the person regarding the location of an individual's residence or a business entity's principal place of business or other physical address location, and any records associated with the person that the provider of money transmission may have that indicate such location, including but not limited to an address associated with an account.

(4) O.C.G.A. § 7-1-691(6) provides that it is a prohibited act for a person engaged in money transmission to fail to issue a refund within ten (10) days of receipt of a customer's request for a refund except in a number of identified circumstances. For payroll processing services, in the event a customer has delivered money or monetary value to a licensee and requested that the money or monetary value be delivered in multiple distributions over multiple days to a person(s) designated by the customer, the failure of the licensee to honor a refund request made after the initial distribution by the licensee but before the final distribution by the licensee will not be deemed a prohibited act under O.C.G.A. § 7-1-691(6) so long as the licensee completes the remaining distribution(s) in compliance with the terms in the written agreement between customer and licensee.

(5) Every licensee giving notices of additional locations or changes in locations operated by the licensee shall do so via the Nationwide Multistate Licensing System and Registry. Such notices shall be uploaded as state specific documents under the document type "Additional Requirements." The file name for each document shall begin with "Georgia Notice of New Locations" but may contain additional words at the option of the licensee. The required notices must be uploaded at least five (5) days prior to the change in location or the opening of the additional location.

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

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 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. August 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. August 3, 1998.

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

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

Amended: New title, "Definitions, Activities, and Locations." F. Dec. 16, 2021; eff. Jan. 5, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-3-1-.02 Disclosures and Receipts

(1) Every licensee or authorized agent of a licensee, unless such authorized agent is a financial institution whose deposits are federally insured, shall display a copy of the licensee's license prominently in every physical location in this state where money transmission is conducted.

(2) Each customer shall be provided with a written receipt or other evidence of acceptance of money received for transmission showing the name of the licensee or trade name of the licensee that is registered with the Department, unique identifier of the licensee, authorized agent identifier information, the date of the receipt of money for transmission, the dollar amount of the money received for transmission, and the fee charged to the customer. The requirement to provide a receipt in this paragraph shall not apply to: money received for transmission subject to 12 C.F.R. Part 1005, Subpart B; money received for transmission that is not for personal, family, or household purposes; money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods and services provided by the payee; and payroll processing services.

(3) Every licensee or authorized agent of a licensee shall transmit money within ten (10) days of receipt unless the agreement satisfies the exception set forth in O.C.G.A. § 7-1-691(3) or the licensee or its authorized agent has a reasonable belief that the customer may be a victim of fraud or that a crime or other violation of law, rule, or regulation has occurred, is occurring, or may occur. If a licensee or its authorized agent fails to forward money received for transmission in accordance with this subsection, the licensee must respond to an inquiry by the customer with the reason for the failure unless providing such response would violate a state or federal law, rule, or regulation.

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

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-690**.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Amended: New title, "Disclosures and Receipts." F. Dec. 16, 2021; eff. Jan. 5, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-3-1-.03 Authorized Agents

(1) Licensees may designate authorized agents to engage in money transmission, and the place of business of such authorized agents will not be construed as a branch office of the licensee. The licensee must conduct a reasonable risk-based background investigation sufficient to determine whether the authorized agent has complied and likely will comply with applicable state and federal law. The licensee must establish and periodically review policies and procedures that are reasonably designed to ensure that the licensee's authorized agents comply with applicable state and federal law. 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 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. The responsibility of both the licensee and its authorized agent shall be defined in a written agreement setting forth the duties of both parties and providing for remuneration of the authorized agent. The written agreement between the licensee and its authorized agent must include the following:

(a) An acknowledgement by the authorized agent of its receipt of the licensee's written policies and procedures set forth above;

(b) A notification that the licensee is subject to regulation by the Department and that, as part of that regulation, the Department may issue administrative action against the licensee and its authorized agent, including but not limited to rescinding the authorization to act as an authorized agent of the licensee; and,

(c) An acknowledgment by the authorized agent that it is subject to and will cooperate with any investigation or examination conducted by the Department pursuant to O.C.G.A. § 7-1-689.

(2) 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 via the Nationwide Multistate Licensing System and Registry. 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 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.

(3) Proceeds received from 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.

Cite as Ga. Comp. R. & Regs. R. 80-3-1-.03

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-683.1**,** 7-1-690**.**

HISTORY: Original Rule entitled "Report of Criminal Violations" adopted. F. and eff. June 30, 1965.

Repealed: New Rule entitled "Quarterly Notice of Agents and Locations" adopted. F. Nov. 19, 1975; eff. Dec. 9, 1975.

Repealed: New Rule entitled "Wire Transfer Services" adopted. F. Sept. 4, 1990; eff. Sept. 24, 1990.

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

Amended: Rule retitled "Money Service Businesses: Compliance With Federal Requirements". F. July 28, 2003; eff. August 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. Jun. 10, 2014; eff. Jun. 30, 2014.

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

Amended: New title, "Authorized Agents." F. Dec. 16, 2021; eff. Jan. 5, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-3. MONEY TRANSMISSION

Subject 80-3-2. FINANCIAL CONDITION, REPORTING, AND CONTROL

80-3-2-.01 Reports of Condition

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

(1) 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 submitted to the Department via NMLS within ninety (90) days of the end of each fiscal year.

(2) 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.

(3) 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 money transmission liability 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.

Cite as Ga. Comp. R. & Regs. R. 80-3-2-.01

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-684.1**,** 7-1-690**.**

HISTORY: Original Rule entitled "Reports of Condition" adopted. F. Dec. 16, 2021; eff. Jan. 5, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-3-2-.02 Net Worth

(1) 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 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, including, but not limited to, audited financial statements for the most recent fiscal year and the previous two years or, if determined to be acceptable by the Department for a more recently formed entity, certified unaudited financial statements for the most recent fiscal year or other relevant period. Each licensee shall be required to complete and attest to official questionnaires and statements of assets and liabilities when requested for examination purposes.

(2) An applicant or licensee that is unable to meet the minimum tangible net worth requirement set forth in O.C.G.A. § 7-1-683.2 may submit to the Department a written request for a waiver in a form and manner prescribed by the Department. The request should provide information pertinent to the request, including but not limited to the applicant or licensee's financial condition, the extent to which a waiver is requested, and the specific reasons for the request. The Department shall take into consideration competitive, financial, managerial, compliance, and other concerns in evaluating any waiver request. The Department is authorized to impose conditions on the grant of any request for a waiver. Such written request shall be submitted to the Department via NMLS. Such written request shall be uploaded as a state-specific document under the document type "Additional Requirements." The file name

shall begin with "Georgia Tangible Net Worth Waiver Request" but may contain additional words at the option of the licensee.

Cite as Ga. Comp. R. & Regs. R. 80-3-2-.02

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-690**.**

HISTORY: Original Rule entitled "Net Worth" adopted. F. Dec. 16, 2021; eff. Jan. 5, 2022.

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-3-2-.03 Surety Bond

If a licensee's average daily money transmission liability, 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 average daily money transmission liability pursuant to O.C.G.A. § 7-1-683.2(b)(2). However, notwithstanding the above, the amount of the surety bond required by O.C.G.A. § 7-1-683.2(b)(2) shall not be required to exceed $2,000,000.00.

Cite as Ga. Comp. R. & Regs. R. 80-3-2-.03

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-683.2**,** 7-1-690**.**

HISTORY: Original Rule entitled "Surety Bond" adopted. F. Dec. 16, 2021; eff. Jan. 5, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-3-2-.07 Permissible Investments

(1) The following investments are permissible to satisfy the requirements of O.C.G.A. § 7-1-683.2(c):

(a) Cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit of the licensee's customers in a federally insured depository financial institution, and the following cash equivalents: Automated Clearing House ("ACH") items in transit to the licensee and ACH items or international wires in transit to a payee, cash in transit via armored car, cash in smart safes, cash in licensee-owned locations under appropriate controls, debit card or credit card-funded transmission receivables owed by any federally insured depository financial institution, or money market mutual funds rated "AAA" by S&P Global Ratings ("S&P"), or the equivalent from any eligible rating service.

(b) Certificates of deposit or senior debt obligations of a financial institution whose deposits are federally insured.

(c) An obligation of the United States or a commission, agency, or instrumentality thereof; an obligation that is guaranteed fully as to principal and interest by the United States; or an obligation of a state or a governmental subdivision, agency, or instrumentality;

(d) One hundred percent of the surety bond provided for in O.C.G.A. § 7-1-683.2(b) that exceeds the amount required by the Department.

(e) Receivables that are payable to a licensee from its authorized agents in the ordinary course of business that are less than seven days old, up to 50% of the aggregate value of the licensee's total permissible investments, with not

more than 10% of the aggregate value of the licensee's total permissible investments consisting of receivables from a single authorized agent; and,

(f) The following investments are permissible up to 20% per category and combined up to 50% of the aggregate value of the licensee's total permissible investments:

(i) A short-term investment of up to six months bearing an eligible rating;

(ii) Commercial paper bearing an eligible rating;

(iii) A bill, note, bond, or debenture bearing an eligible rating;

(iv) United States tri-party repurchase agreements collateralized at 100% or more with U.S. government or agency securities, municipal bonds, or other securities bearing an eligible rating;

(v) Money market mutual funds rated less than "AAA" and equal to or higher than "A-" by S&P, or the equivalent from any other eligible rating service; and,

(vi) A mutual fund or other investment fund composed solely and exclusively of one or more permissible investments listed in subsections (a), (b), and (c) above.

(2) For purposes of this rule, these terms shall mean the following:

(a) "Eligible rating service" means any Nationally Recognized Statistical Rating Organization (NRSRO) as defined by the U.S. Securities and Exchange Commission.

(b) "Eligible rating" means a credit rating of any of the three highest rating categories provided by an eligible rating service, whereby each category may include rating category modifiers such as "plus" or "minus" for S&P or the equivalent for any other eligible rating service. Long-term credit ratings are deemed eligible if the rating is equal to A- or higher by S&P, or the equivalent from any other eligible rating service. Short-term credit ratings are deemed eligible if the rating is equal to or higher than A-2 or SP-2 by S&P, or the equivalent from any other eligible rating service. In the event that ratings differ among eligible rating services, the highest rating shall apply when determining whether a security bears an eligible rating.

Cite as Ga. Comp. R. & Regs. R. 80-3-2-.07

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-690**.**

HISTORY: Original Rule entitled "Permissible Investments" adopted. F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-3. MONEY TRANSMISSION

Subject 80-3-3. BOOKS AND RECORDS

80-3-3-.01 Minimum Books and Records

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

(a) A record of each payment instrument sold;

(b) A general ledger which shall be posted at least monthly containing all assets, liabilities, capital, and income and expense accounts;

(c) Settlement sheets received from authorized agents;

(d) Bank statements and bank reconciliation records;

(e) Records of outstanding payment instruments;

(f) Records of each payment instrument paid;

(g) A list of the names and addresses of all of the licensee's authorized agents;

(h) 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;

(i) Records of all money transmissions sent or received as well as all outstanding money transmissions;

(j) Supporting documentation for all reports required to be prepared or filed with the Department or the Nationwide Multistate Licensing System and Registry;

(k) Information security program materials maintained by the licensee in accordance with 16 C.F.R. Part 314, ("the Safeguards Rule") and Rule 80-3-1-.05, including, but not limited to, any risk assessment and incident response plan; and

(l) Records of written requests for and issuance of refunds.

(2) 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.

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

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-689**,** 7-1-690**.**

HISTORY: Original Rule entitled "Minimum Books and Records" adopted. F. Dec. 16, 2021; eff. Jan. 5, 2022.

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-3. MONEY TRANSMISSION

Subject 80-3-4. ADMINISTRATIVE FINES AND PENALTIES

80-3-4-.01 Administrative Fines

(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 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) In addition to any fines levied by the Department, the recipient of the fine may be subject to additional administrative actions for the same underlying activity.

(4) The Department establishes the following fines and penalties for violation of the laws and rules governing 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-.03, 80-3-1-.01(3), 80-3-2-.01, 80-3-1-.02(2), 80-3-3-.01, or 80-3-3-.02, 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-.03, 80-3-1-.01(3), 80-3-2-.01, 80-3-1-.02(2), 80-3-3-.01 or 80-3-3-.02.

(b) Operating Without Proper License. Any person who acts as a 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 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.

(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(c), when such covered employee has not complied with the remedies provided for in O.C.G.A. § 7-1-684(c) for each conviction before such employment, shall be subject to a fine of five thousand dollars ($5,000) for each such covered employee.

(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-.03(2) and 80-3-1-.01(3), shall be subject to a fine of five hundred dollars ($500) for each location or agent not reported.

(e) Background Checks on Employees. Any licensee that does not obtain a criminal background check on each covered employee prior to the initial date of hire, retention, or transition of an existing employee to a covered employee as set forth in Rule 80-3-5-.04(1) shall be subject to a fine of one thousand dollars ($1,000) per occurrence. Proof of the required 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 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-.03(2), 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-.02(2), 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 80-3-2-.04 shall be subject to a fine of one thousand dollars ($1,000). Any licensee or other person who fails to timely notify the Department of a change in control not requiring approval in compliance with O.C.G.A. § 7-1-687 shall be subject to a fine of one thousand dollars ($1,000). 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 shall be subject to a fine of one thousand dollars ($1,000).

(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 money transmission, shall be subject to a fine of five thousand dollars ($5,000).

(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.

(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 (after a reasonable request by the Department), shall be a five thousand dollars ($5,000) fine. Refusal shall require at least two attempts by the Department to schedule an examination or investigation.

(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.

(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 80-3-6-.01, 80-3-6-.02, and 80-3-6-.03, 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 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 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 any physical location in this state where money transmission is conducted 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. §§ 7-1-691 and 7-1-692 shall be subject to a fine of one thousand dollars ($1,000) per violation or transaction that is in violation.

(r) Unauthorized Access to Customer Information. Any licensee that fails to provide the Department with notice of unauthorized access to customer information as required by Rule 80-3-1-.04 shall be subject to a fine of one thousand dollars ($1,000) a day until the notice is provided.

(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 money transmission liability, as required by Rule 80-3-2-.03, exceeds 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.

(t) Failure to Provide Refund. Any licensee that fails to provide the customer with a refund as required by O.C.G.A. § 7-1-691(6) within ten (10) days of a written request shall be subject to a fine of one hundred dollars ($100) per transaction where a refund was not timely provided.

(u) Failure to Notify Authorized Agents of Termination of License. Any licensee that fails to timely provide documentation to the Department that the licensee has notified its authorized agents of the suspension, revocation, surrender, or expiration of the licensee's license as required by O.C.G.A. § 7-1-683.1(d) shall be subject to a fine of five thousand dollars ($5,000).

Cite as Ga. Comp. R. & Regs. R. 80-3-4-.01

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-690**,** 7-1-694**.**

HISTORY: Original Rule entitled "Administrative Fines" adopted. F. Dec. 16, 2021; eff. Jan. 5, 2022.

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-3. MONEY TRANSMISSION

Subject 80-3-5. LICENSING

80-3-5-.01 Verification of Lawful Presence Citizenship Affidavit

(1) Pursuant to O.C.G.A. § 50-36-1, the Department is required to obtain an affidavit verifying the lawful presence of every natural person that submits an application for a license as a money transmitter on behalf of an individual, business, corporation, partnership, limited liability company, or any other business entity. For businesses, corporations, partnerships, limited liability companies, and other business entities (collectively "company applicant"), only an owner or executive officer that is authorized to act on behalf of the company applicant is authorized to submit the required signed and sworn affidavit.

(2) In the event the individual that executed the lawful presence affidavit on behalf of the company applicant is no longer an owner or executive officer of the licensee, the licensee must notify the Department within ten (10) business days following the date of the occurrence and provide the Department with an affidavit from a current owner or executive officer verifying his or her lawful presence on behalf of the licensee. The failure to disclose within ten (10) business days that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee or to timely submit a new affidavit from a current owner or executive officer may subject the license to revocation, suspension, and other administrative action.

Cite as Ga. Comp. R. & Regs. R. 80-3-5-.01

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-690**.**

HISTORY: Original Rule entitled "Verification of Lawful Presence Citizenship Affidavit" adopted. F. Dec. 16, 2021; eff. Jan. 5, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-3-5-.02 Nationwide Multistate Licensing System and Registry

(1) License issuance and renewals.

(a) All applications for new or renewal licenses must be made through the Nationwide Multistate Licensing System and Registry ("NMLSR") unless otherwise expressly exempted from this requirement by the Department in writing. Fees for new applications include an initial Department investigation fee and the appropriate application fee. Applications for new licenses which are approved between November 1 and December 31 in any year will not be required to file a renewal application for the next calendar year. All fees are non-refundable.

(b) All licenses issued shall expire on December 31 of each year, and an application for renewal shall be made annually between November 1 and December 31 each year. Subsequent renewal applications and/or license fees must be received on or before December 1 of each year or the renewal applicant will be assessed a late fee as set forth in Rule 80-5-1-.02. A renewal application is not deemed received until all required information and corresponding fees have been provided by the licensee. A proper renewal application not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license will expire. Unless a proper renewal application has been received any license which is not renewed on or before December 31 will require the renewal applicant to file a reinstatement application in order to conduct business as a money transmitter in the State after that date.

(2) The responsibility of applicants and licensees to update information in NMLSR.

(a) It shall be the sole responsibility of each applicant for a license and each licensee to keep current at all times its information on the NMLSR. Amendments to any information on file with the NMLSR must be made by the applicant or licensee within ten (10) business days of the date of the event necessitating the change. The Department shall have no responsibility for any communication not received by an applicant or licensee due to its failure to maintain current contact information on the NMLSR as required.

(b) Amendments to any responses to disclosure questions by an applicant for a license or a licensee must be made within ten (10) business days following the date of the event necessitating the change. Failure by an applicant for a license to timely update the applicant's responses to disclosure questions may result in the denial of the application. In the case of a licensee, failure to timely update any disclosure information may result in the revocation of its license.

(c) It shall be the responsibility of each applicant for a license and each licensee to ensure that its control persons keep current at all times their information on the NMLSR. Amendments to any information on file with the NMLSR must be made by the control person within ten (10) business days of the date of the event necessitating the change. For purposes of this Rule, control person means any individual that has the power, either directly or indirectly, to direct or cause the direction of management and policies of an applicant or licensee, whether through the ownership of voting or nonvoting securities, by contract, or otherwise.

(d) Amendments to any responses to disclosure questions by a control person must be made within ten (10) business days following the date of the event necessitating the change. Failure by a control person of an applicant for a license to timely update the control person's responses to disclosure questions may result in the denial of the application. In the case of a licensee, failure by a control person to timely update any disclosure information may result in the revocation of its license.

(3) A licensee may challenge information entered by the Department into the NMLSR. All challenges must be sent to the Department in writing addressed to the attention of the Deputy Commissioner of Non-Depository Financial Institutions. Once received, the Department shall consider the merits of the challenge raised and provide the licensee with a written reply that shall be the Department's final decision regarding the challenge.

(4) All written notices required pursuant to O.C.G.A. §§ 7-1-687(a) and 7-1-687(d) shall be submitted to the Department via NMLS. Such notices shall be uploaded as state-specific documents under the document type "Additional Requirements." The file name for each document shall begin with "Georgia Required Written Notice" but may contain additional words at the option of the licensee.

Cite as Ga. Comp. R. & Regs. R. 80-3-5-.02

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-683.3**,** 7-1-690**.**

HISTORY: Original Rule entitled "Nationwide Multistate Licensing System and Registry" adopted. F. Dec. 16, 2021; eff. Jan. 5, 2022.

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-3-5-.04 Employee Background Checks; Covered Employees

(1) As required by O.C.G.A. § 7-1-684(f), applicants and licensees must have commercial background checks performed on all covered employees, as defined in O.C.G.A. § 7-1-680(7). Background checks on all covered employees must be completed and found satisfactory by an applicant prior to the issuance of a license or by a licensee prior to the initial date of hire of such covered employee. In the event the job responsibilities of an

employee change so that the employee satisfies the covered employee definition in O.C.G.A. § 7-1-680(7), the required background check must be completed and found satisfactory prior to the change in job responsibilities.

(2) Pursuant to O.C.G.A. § 7-1-684(f), applicants and licensees shall conduct criminal background checks by utilizing a commercial entity. The commercial entity shall be in the business of conducting criminal background checks. The criminal background checks conducted by the commercial entity must not have any time period limitations, geographic limitations, or restrictions in the search criteria, unless the time period limitation, geographic limitation, or other restriction on the background checks is required by applicable federal or state law. Any fees charged by the commercial entity for processing background checks must be paid by the applicant or licensee.

(3) Licensees may coordinate, via contract or otherwise, with authorized agents to obtain any required criminal background checks for covered employees employed by authorized agents. However, notwithstanding this coordination between the licensee and the authorized agent, the licensee remains responsible for compliance with O.C.G.A. § 7-1-684(f).

Cite as Ga. Comp. R. & Regs. R. 80-3-5-.04

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-684**,** 7-1-690**.**

HISTORY: Original Rule entitled "Employee Background Checks; Covered Employees" adopted. F. July 7, 2023; eff. July 27, 2023.

80-3-5-.05 Transition Period

Money transmitters licensed as of July 1, 2023, shall be afforded a transition period through December 31, 2024, to demonstrate compliance with the following requirements:

(a) The content of written agreements between licensees and their authorized agents, including both new and continuing authorized agents, as required by 80-3-1-.03(1)(a) through (c).

(b) For any person previously approved as a seller of payment instruments licensee that is deemed to be a money transmitter licensee as of July 1, 2023, the license type indicated in any document produced or used by the licensee, including but not limited to the license posted in a physical location in this state where money transmission is conducted, and written agreements between the licensee and its authorized agents.

(c) The minimum tangible net worth required by O.C.G.A. § 7-1-683.2(a) or submission of a request for a waiver of the requirement pursuant to O.C.G.A. § 7-1-683.2(a) and Rule 80-3-2-.02.

Cite as Ga. Comp. R. & Regs. R. 80-3-5-.05

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-690**.**

HISTORY: Original Rule entitled "Transition Period" adopted. F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-3. MONEY TRANSMISSION

Subject 80-3-6. COMPLIANCE WITH FEDERAL REQUIREMENTS

80-3-6-.02 Reports of Large Currency Transactions, Recordkeeping, and Suspicious Activity Reporting Requirements

(1) Persons engaged in the business of transmitting money and authorized agents of money transmitters shall be subject to the filing requirements for large currency transactions as prescribed in Article 11 of Chapter 1 of Title 7, and as further directed herein.

(2) The reporting requirements contained in Article 11 of Chapter 1 of Title 7 shall be met by filing with the appropriate federal agency a copy of the form(s) filed in compliance 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") within the time limits set forth therein. Such forms shall include the filing of currency transaction reports and suspicious activity reports as described in the Bank Secrecy Act and accompanying regulations.

(3) Recordkeeping. Georgia law regarding such recordkeeping for money transmitters shall be satisfied by compliance with all applicable federal law. Such federal law includes, but is not limited to, the Bank Secrecy Act.

(4) Records required to be maintained under Paragraph (3) of this rule may be maintained in a photographic, electronic, or other similar form 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 date of the Department's request.

(5) Currency transaction reporting requirements for financial institutions are contained in Chapter 80-9-1 of the Department's regulations.

Cite as Ga. Comp. R. & Regs. R. 80-3-6-.02

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-690**.**

HISTORY: Original Rule entitled "Reports of Large Currency Transactions, Recordkeeping, and Suspicious Activity Reporting Requirements" adopted. F. Dec. 16, 2021; eff. Jan. 5, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-3-6-.03 Reports of Apparent Criminal Irregularity by Licensees and Authorized Agents

(1) Licensees shall file with the Department the name, location, and federal tax identification number of any authorized agent within this state who has failed to remit to the licensee the proceeds received from licensee's money transmission activities in accordance with the terms of the contract between the licensee and the authorized agent or whose authorized agency status has been revoked, suspended, terminated, cancelled, or voluntarily closed due to an outstanding liability due to the licensee. The report shall state the aggregate amount of unremitted money transmission proceeds due to the licensee and any provisions which have been made to recover same.

(2) Structuring to avoid reporting.

(a) Unless otherwise reporting to the appropriate federal agency under Rule 80-3-6-.02(2), money transmitters and authorized agents of money transmitters shall report to the Department any instance involving such money transmission where there is reasonable cause to believe that its customer has, for the purpose of evading the reporting requirements of 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 Article 11 of Chapter 1 of Title 7:

1. Caused or attempted to cause a currency transaction report required under Article 11 of Chapter 1 of Title 7 or the Bank Secrecy Act not to be filed;

2. Caused or attempted to cause a currency transaction report required under Article 11 of Title 7 or the Bank Secrecy Act to be filed containing a material omission or misstatement as defined in O.C.G.A. § 7-1-912;

3. Completed a structuring (as defined in O.C.G.A. § 7-1-912), assisted in structuring, attempted a structuring, or attempted to assist in structuring any currency transaction.

(b) Authorized agents of money transmitters shall not be required to report as provided in subsection (a) where the licensee has advised the authorized agent in writing that the licensee operates a system of internal procedures designed to gather the pertinent data and file the reports required in subsection (a).

(3) Any licensed money transmitter shall notify the Department within ten (10) business days of any knowledge or discovery of any criminal act or apparent criminal act by any officer, director, or employee of such licensee or by any officer, director, or employee of an authorized agent occurring in this state and relating to the business of the licensee. Such notification shall include a full description of the acts or apparent acts believed to be in violation of the criminal laws of this state or the United States, the names of all persons believed to be involved, a statement as to action taken by the licensee in response to the discovery or suspicions, and a copy of the written notification to the licensee's fidelity insurance carrier.

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

Cite as Ga. Comp. R. & Regs. R. 80-3-6-.03

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-690**.**

HISTORY: Original Rule entitled "Reports of Apparent Criminal Irregularity by Licensees and Authorized Agents" adopted. F. Dec. 16, 2021; eff. Jan. 5, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-4. CHECK CASHERS

Subject 80-4-1. CHECK CASHERS

80-4-1-.01 Books and Records; Other Requirements

(1) For purposes of this Rules Chapter and Rule 80-5-1-.02(2), the terms that are defined in O.C.G.A. § 7-1-700 shall have the identical meaning.

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

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

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

(5) Minimum Books and Records.

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

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

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

(i) The date of negotiation of the payment instrument;

(ii) Name, address, and identifying number (social security, driver's license, passport, etc.) of the person negotiating the payment instrument;

(iii) Amount of the payment instrument; and

(iv) Amount of fee charged for cashing the payment instrument.

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

(i) Date of the payment instrument;

(ii) Payment instrument number;

(iii) Name and location or routing number of the payor financial institution or, if a pre-paid card, the branded card name; and

(iv) Name of the drawer of the payment instrument.

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

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

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

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

(g) Information security program materials maintained by the licensee in accordance with 16 C.F.R. Part 314, ("the Safeguards Rule") and Rule 80-3-1-.05, including, but not limited to, any risk assessment and incident response plan.

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

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

(8) The business of the licensee may be conducted through additional outlets, including those operated as mobile facilities, provided that mobile facilities maintain a regular schedule of times and locations at which they cash payment instruments, file the schedule with the Department, and comply with local licensure requirements at each

location at which business is conducted. A licensee must provide the Department with written notice at least thirty (30) days prior to it conducting business at any additional outlets.

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

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

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

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

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-702.2**,** 7-1-706**.**

HISTORY: Original Rule entitled "Definitions" was filed on July 5, 1973; effective July 25, 1973.

Amended: Rule repealed and a new Rule of the same title adopted. Filed June 18, 1979; effective July 8, 1979.

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

Amended: Filed October 12, 1982; effective November 2, 1982.

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

Adopted: New Rule entitled "Books and Records; Other Requirements." F. Dec. 16, 2021; eff. Jan. 5, 2022.

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-4-1-.05 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 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) In addition to any fines levied by the Department, the recipient of the fine may be subject to additional administrative actions for the same underlying activity.

(4) 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 80-4-1-

.01(2) or 80-4-1-.01(5), such licensee shall be subject to a fine of one thousand dollars ($1,000) for each books and records violation listed in Rules 80-4-1-.01(2) or 80-4-1-.01(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.

(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.

(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(c), when such covered employee has not complied with the remedies provided for in O.C.G.A. § 7-1-703(c) for each conviction before such employment, shall be subject to a fine of five thousand dollars ($5,000) for each such covered employee.

(f) Background Checks on Employees. Any licensee that does not obtain a criminal background check on each covered employee prior to the initial date of hire, retention, or transition of an existing employee to a covered employee as set forth in Rule 80-4-1-.10(1) shall be subject to a fine of one thousand dollars ($1,000) per occurrence. Proof of the required 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 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.

(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).

(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 80-4-1-.01(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 (after a reasonable request by the Department), shall be a five thousand dollar ($5,000) fine. Refusal shall require at least two attempts by the Department to schedule an examination or investigation.

(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.

(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 80-4-1-.01 shall be subject to a fine of one thousand dollars ($1,000). 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 shall be subject to a fine of one thousand dollars ($1,000).

(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 80-4-1-.02, 80-4-1-.03, and 80-4-1-.04, 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 80-4-1-.01(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.

(t) Unauthorized Access to Customer Information. Any licensee that fails to provide the Department with notice of unauthorized access to customer information as required by Rule 80-4-1-.08 shall be subject to a fine of one thousand dollars ($1,000) a day until the notice is provided.

Cite as Ga. Comp. R. & Regs. R. 80-4-1-.05

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-702.2**,** 7-1-708.2**.**

HISTORY: Original Rule entitled "Reserves" was filed on July 5, 1973; effective July 25, 1973.

Amended: Rule repealed and a new Rule of the same title adopted. Filed June 18, 1979; effective July 8, 1979.

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

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

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

Adopted: New Rule entitled "Administrative Fines and Penalties." F. Dec. 16, 2021; eff. Jan. 5, 2022.

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-4-1-.10 Employee Background Checks; Covered Employees

(1) As required by O.C.G.A. § 7-1-703(f), applicants and licensees must have commercial background checks performed on all covered employees, as defined by O.C.G.A. § 7-1-700(7). Background checks on all covered employees must be completed and found satisfactory by an applicant prior to the issuance of a license or by a licensee prior to the initial date of hire of such covered employee. In the event the job responsibilities of an employee change so that the employee satisfies the covered employee definition in O.C.G.A. § 7-1-700(7), the required background check must be completed and found satisfactory prior to the change in job responsibilities.

(2) Pursuant to O.C.G.A. § 7-1-703(f), applicants and licensees shall conduct criminal background checks by utilizing a commercial entity. The commercial entity shall be in the business of conducting criminal background checks. The criminal background checks conducted by the commercial entity must not have any time period limitations, geographic limitations, or restrictions in the search criteria, unless the time period limitation, geographic limitation, or other restriction on the background checks is required by applicable federal or state law. Any fees charged by the commercial entity for processing background checks must be paid by the applicant or licensee.

Cite as Ga. Comp. R. & Regs. R. 80-4-1-.10

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-703**.**

HISTORY: Original Rule entitled "Employee Background Checks; Covered Employees" adopted. F. July 7, 2023; eff. July 27, 2023.

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-.02 License and Supervision Fees for Check Cashers, Money Transmitters, Representative Offices, Mortgage Lenders, Mortgage Brokers, Mortgage Loan Originators, and Installment Lenders; Due Dates

(1) Money transmitters.

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

(b) The annual renewal license fee is one thousand nine hundred dollars ($1,900) money transmitters and shall be due and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual license renewal fee is not received by the Department on or before December 1 may be assessed a late fine of three hundred dollars ($300) and cannot be assured of renewal of its license prior to January 1.

(c) An additional non-refundable application investigation fee of two hundred fifty dollars ($250) will be assessed.

(d) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-1-688, shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars ($500).

(2) Check Cashers.

(a) The annual license fee is three hundred dollars ($300).

(b) The annual renewal license fee is three hundred dollars ($300).

(c) An initial investigation and supervision fee shall be five hundred fifty dollars ($550) for the first year. It is not refundable, but if the license is granted it shall satisfy the annual fee for the first license period.

(d) Initial and renewal license fees shall also include an additional thirty dollars ($30) for the second and each additional location, plus a fee in an amount as directed by the Department to cover the cost of the required number of fingerprints for each individual background check.

(e) Annual renewal license fees shall be due and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual renewal license fee is not received by the Department on or before the first day of December of each year may be assessed a late fine of three hundred dollars ($300) and cannot be assured of renewal of its license prior to January 1.

(f) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-1-705.1 shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars ($500).

(3) Registrants of Georgia state representative offices as defined in O.C.G.A. § 7-1-1100 shall pay an annual registration fee of one thousand dollars ($1,000).

(4) Mortgage licensees and registrants.

(a) Lenders. The initial and renewal application and license fee for mortgage lenders shall be nine hundred dollars ($900). The initial fee of nine hundred dollars ($900) covers the main office. Any branch offices included in the initial application shall be assessed a fee of three hundred thirty dollars ($330) each. A fee of three hundred thirty dollars ($330) will be assessed for each additional office not initially registered, if such office is located in Georgia, and if mortgage lending activity is conducted at the office. An initial investigation fee of two hundred fifty dollars ($250) per applicant shall also apply. Subsequent renewal applications and license fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars ($300). A renewal application and license fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(b) Brokers. The initial and renewal application and license fee for mortgage brokers shall be four hundred dollars ($400). The initial four hundred dollar ($400) fee covers the main office. Any branch offices located in Georgia shall be assessed a fee of three hundred thirty dollars ($330) each. Brokers include loan processors. Processors are defined in Rule 80-11-4-.07. Such a processor may have a separate main office and other branch offices where mortgage loan processing is done. The offices will be treated the same as brokers' offices. An initial investigation fee of two hundred fifty dollars ($250) per applicant shall also apply. Subsequent renewal applications and license fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars ($300). A renewal application and license fee that is not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(c) Mortgage Loan Originators. The initial and renewal application and license fee for mortgage loan originators shall be two hundred dollars ($200). Subsequent renewal application fees must be received by the Department on or before December 1 of each year or the applicant may be assessed a late fine of two hundred dollars ($200). A renewal application is not deemed received until all required information, including a renewal fee in the appropriate amount and documentation showing that the requisite continuing education hours have been obtained, has been provided by the licensee. A renewal application, containing all of the required information along with the correct fees and proof of required continuing education that is not received by the Department on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct mortgage loan origination activity without a current license.

(d) Lender Registrants. The initial and renewal application and registration fee for mortgage lenders required to register but not be licensed with the Department shall be nine hundred dollars ($900), due on or before December 1 of each year. An initial investigation fee of two hundred fifty dollars ($250) per applicant shall also apply. Subsequent renewal applications and registration fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars ($300). A renewal application and registration fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(e) Broker Registrants. The initial and renewal application and registration fee for mortgage brokers required to register but not be licensed with the Department shall be four hundred dollars ($400), due on or before December 1 of each year. An initial investigation fee of two hundred fifty dollars ($250) per applicant shall also apply. Subsequent renewal applications and registration fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars ($300). A renewal application and registration fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(f) All late fees collected by the Department, net of the cost of recovery, which cost shall include any cost of hearing and discovery in preparation for hearing, shall be paid into the state treasury to the credit of the general fund or may be paid as provided in O.C.G.A. § 7-1-1018(e).

(g) Applicants for approval to acquire directly or indirectly ten percent (10%) or more of the voting shares of a corporation or ten percent (10%) or more of the ownership of any other entity licensed to conduct business as a mortgage lender and/or a mortgage broker under O.C.G.A. Article 13 (otherwise called change of control) shall pay a nonrefundable investigation, application and processing fee of five hundred dollars ($500).

(h) Application for an additional office of a licensee shall be accompanied by a nonrefundable fee of three hundred thirty dollars ($330), as provided in O.C.G.A. § 7-1-1006.

(5) Installment Lenders.

(a) The annual license fee is five hundred dollars ($500).

(b) The annual license renewal fee is five hundred dollars ($500) and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual license renewal fee is not received by the Department on or before December 1 may be assessed a late fine of three hundred dollars ($300) and cannot be assured of renewal of its license prior to January 1.

(c) An additional nonrefundable initial application investigation fee of two hundred fifty dollars ($250) will be assessed.

(d) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-3-32 shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars ($500).

(e) An application for an additional location of a licensee shall be accompanied by a nonrefundable fee of three hundred dollars ($300). An annual renewal fee of three hundred dollars ($300) per each approved additional location shall be due and must be received by the Department on or before the first day of December of each year.

(6) The Department may discount or surcharge all supervision or license fees herein provided to assure funding of annual appropriations by the General Assembly.

(7) Any fees or charges imposed by the Nationwide Multistate Licensing System and Registry ("NMLSR") shall be independent of any fees charged by the Department. Applicants, licensees, and registrants will be responsible for any and all fees or charges imposed by NMLSR.

(8) All license, investigation, and supervision fees, late fees, fines, taxes owed to the Department, and assessed civil penalties must be paid prior to renewal, reinstatement, or reapplication for a license or any other approval from the Department.

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

AUTHORITY: O.C.G.A. §§ 7-1-41**,** 7-1-61**,** 7-1-683**,** 7-1-685**,** 7-1-702**,** 7-1-704**,** 7-1-716**,** 7-1-721**,** 7-1-1004**,** 7-1-1005**,** 7-3-20**,** 7-3-32**.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: New title, "License and Supervision Fees for Check Cashers, Money Transmitters, Representative Offices, Mortgage Lenders, Mortgage Brokers, Mortgage Loan Originators, and Installment Lenders; Due Dates." F. July 7, 2023; eff. July 27, 2023.

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

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

(a) If the amount of Total Assets is:

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

* Minimum assessment is $350.

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

(b) Except as provided in paragraph (4), all other financial institutions, including credit card banks, bankers banks, corporate credit unions, and related corporations not covered elsewhere in this Section, licensees under Article 4 (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), Georgia state representative offices as defined in O.C.G.A. § 7-1-1100, 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 a Georgia state branch, a Georgia state agency, or domestic international banking facility shall pay an investigation fee of $5,000. In the event the application for a domestic international banking facility is denied, $2,000 representing the applicant's initial license fee shall be refunded. 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 for domestic international banking facilities shall be issued for a twelve month period.

(g) Depository financial institutions, except credit card banks, bankers banks, and corporate 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 shall pay an annual supervision fee of $500, due on or before January 31 of each year.

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

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

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

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

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

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

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

(4) (a) Each Georgia state branch or Georgia state agency as those terms are defined by O.C.G.A. § 7-1-1100 shall pay an annual assessment fee allocable to regular examination and supervision activities which shall be assessed in accordance with the following scale for depository financial institutions:

If the Georgia state branch or Georgia state agency's total assets are:

Over Million	But Not Over Million	This Amount (Base Assessment)	Plus (Assessment Rate)	Of Excess Over Million
$0.00	$35.00	$0.00	0.00013	0
35.00	100.00	4,550.00	0.000104	35
100.00	500.00	11,310.00	0.00008	100
500.00	1,000.00	42,990.00	0.000056	500
1,000.00	2,500.00	70,670.00	0.000032	1,000
2,500.00	5,000.00	119,310.00	0.000008	2,500
5,000.00	7,500.00	139,310.00	0.000004	5,000
7,500.00	10,000.00	149,310.00	0.0000016	7,500
10,000.00		153,310.00	0.0000008	10,000

Regardless of the rates above, the annual assessment must equal at least $2,000.

(c) Annual assessments are for the Department's fiscal year, July 1 through June 30. Assessments are based upon the total assets of the Georgia state branch or Georgia state agency as indicated in the periodic Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks ("report") preceding the assessment date filed by the Georgia state branch or Georgia state agency. All financial institutions will be assessed, either for a full year or for a partial year, as appropriate. Annual assessments for Georgia state branches and Georgia state agencies existing on July 1, will be based on June 30 reports, 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. Assessments related to a conversion to a Georgia state branch or Georgia state agency or to a license issuance after July 1 will be prorated for the number of full and partial months as a Georgia state branch or Georgia state agency 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 any annual assessment paid to the Department be refunded.

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. August 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. August 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. August 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. August 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. August 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. Sept. 8, 2020.

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

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

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-8. AGENCY ORGANIZATION AND PROCEDURES

Subject 80-8-1. AGENCY ORGANIZATION AND PROCEDURES

80-8-1-.01 Organization

(1) The Department is organized pursuant to the provisions of O.C.G.A. § 7-1-30 and is charged with the responsibility of supervising the activities of depository financial institutions and certain other financial entities operating pursuant to the provisions of Title 7.

(2) The administration of the Department is under the direction of the Commissioner of Banking and Finance. The Commissioner is assisted by a Senior Deputy and Divisional Deputies in the areas of Administration, Legal Affairs, Non-Depository Financial Institutions, and Financial Institution Supervision. The Financial Institutions Supervision Division administers laws, regulations and supervisory matters relating to credit unions, banks, domestic international banking facilities, foreign bank offices (Georgia state branches, Georgia state agencies, and Georgia state representative offices), trust companies, holding companies, merchant acquirer limited purpose banks, and state savings and loan associations; and processes applications for such entities. The state is geographically divided into districts or divisions, each of which is administered by a District Director. Legal Affairs is responsible for legal matters. Non-Depository Financial Institutions is responsible for regulation and supervision of mortgage lenders, mortgage brokers, and mortgage loan originators under the Georgia Residential Mortgage Act; the regulation and supervision of money service businesses, including check cashers and money transmitters; and the regulation of installment lenders. Administration is responsible for personnel and all budgetary matters.

(3) The Department is funded entirely from the examination, supervision, licensing and other fees paid by supervised financial institutions and other entities under its jurisdiction, and operates under the budgetary system of the state of Georgia.

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

AUTHORITY: O.C.G.A. § 7-1-61**.**

HISTORY: Original Rule entitled "Organization" adopted. F. June 22, 1982; eff. July 12, 1982.

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

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

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

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

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

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

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-11. RESIDENTIAL MORTGAGE BROKERS, LENDERS AND ORIGINATORS

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

80-11-1-.04 Branch Managers

(1) A "branch manager" shall mean an individual who supervises daily activities in Georgia of a licensee, whether at a main or branch location, and regardless of job title. Branch manager shall include an independent contractor of a mortgage broker as contemplated under O.C.G.A. § 7-1-1001(a)(17) if such independent contractor works from a branch under 80-11-1-.03(3)(e).

(2) In order to be approved as a branch manager, an individual must be licensed by the Department as a mortgage loan originator.

(3) No individual shall be permitted to manage a location in Georgia without being approved by the Department as a branch manager. A branch manager may be put in place subject to departmental approval, but the Department must receive a complete application for approval within 15 calendar days of the placement. No individual may serve as the branch manager of more than one location of a licensee unless the licensee can demonstrate that the proposed branch manager will be able to effectively manage these locations to ensure that they operate in compliance with state and federal law, and that the manager can adequately supervise the daily functions performed by the employees at the locations. In order to qualify for the employee exemption, an employee must be supervised on a daily basis by the licensee. Considerations by the Department in determining whether a branch manager may supervise more than one location will include: proximity of branches to each other, volume of business at each, experience level of proposed manager and plans to handle the supervision.

(4) The Department shall conduct a background check, obtain a credit report, and require a financial statement and such other pertinent information as it may require to satisfy itself that the location will be operated by the branch manager responsibly and in compliance with the laws and rules of this state.

Cite as Ga. Comp. R. & Regs. R. 80-11-1-.04

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-1006**,** 7-1-1012**.**

HISTORY: Original Rule entitled "Knowing Purchase of Loan from Unlicensed Entity" adopted. F. July 14, 1998; eff. August 3, 1998.

Amended: Rule renumbered to 80-11-4-.05; New Rule entitled "Approval of Branch Managers" adopted. F. June 8, 2000; eff. June 28, 2000.

Amended: Rule retitled "Branch Managers". F. July 28, 2003; eff. August 17, 2003.

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

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

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

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

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-11-1-.05 Employee Background Checks; Covered Employees

(1) As required by O.C.G.A. § 7-1-1004(l), applicants and licensees must complete background checks on all covered employees as defined in O.C.G.A. § 7-1-1000(5.1). Background checks on all covered employees must be completed and found satisfactory by an applicant prior to the issuance of a license and by a licensee prior to the initial date of l hire of such covered employee. In the event the job responsibilities of an employee change so that the employee satisfies the covered employee definition in O.C.G.A. § 7-1-1000(5.1), the required background check must be completed and found satisfactory prior to the change in job responsibilities.

(2) The term "access to residential mortgage loan origination, processing, or underwriting information" in O.C.G.A. § 7-1-1000(5.1), shall mean any prospective borrower's personal electronic or printed information and documents, including but not limited to bank statements, W-2 forms, income tax returns, employment records, and other personal financial information required to be submitted in the course of making an application for a mortgage loan. It also includes access to documents maintained and generated by the licensee in the course of the application and administration of the mortgage loan, including but not limited to electronic or printed/written information on the mortgagor and their loan, including personal and loan database information, payments and payment history information, past due reports and schedules, coupon books, information generated for tax purposes, including escrow information, and any other information generated which would include the financial and loan history of the mortgagor. Documents would also include computer displays of personal and mortgage loan information on an individual borrower or client which may be disseminated by the licensee's personnel in the course of verifying information for customers and other business related inquiries.

(3) Pursuant to O.C.G.A. § 7-1-1004(l), applicants and licensees shall conduct criminal background checks by utilizing a commercial entity. The commercial entity shall be in the business of conducting criminal background checks. The criminal background checks conducted by the commercial entity must not have any time period limitations, geographic limitations, or other restrictions in the search criteria, unless the time period limitation, geographic limitation, or other restriction on the background checks is required by applicable federal or state law. Any fees charged by the commercial entity for conducting background checks must be paid by the applicant or licensee.

Cite as Ga. Comp. R. & Regs. R. 80-11-1-.05

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-1004**,** 7-1-1012**.**

HISTORY: Original Rule entitled "Licensing Requirements" adopted. F. Dec. 6, 1999; eff. Dec. 26, 1999.

Repealed: F. June 8, 2000; eff. June 28, 2000.

Amended: New Rule entitled "Employee Background Checks; Covered Employees" adopted. F. July 28, 2003; eff. August 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. 17, 2009; eff. Sept. 6, 2009.

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

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-11-1-.09 Electronic Service of Notice of Intent to Deny, Revoke, or Suspend License or Registration

Any notice served by the Department pursuant to O.C.G.A. § 7-1-1017 shall first be sent by email to the email address of record that the applicant, licensee, or registrant has designated as their email address for regulatory contact on file with the Nationwide Multistate Licensing System and Registry. Any notice sent by email shall be deemed delivered once the Department receives a non-automated affirmative response from the intended recipient of such notice and no further service will be thereafter attempted by the Department in relation to that notice. If the Department does not receive an affirmative response from the intended recipient within five business days of emailing the notice to the email address of record, the Department shall then attempt to deliver the notice via registered or certified mail or statutory overnight delivery to the principal place of business of such applicant, licensee, or registrant. In the event the above methods of service are unsuccessful, the Department may attempt to deliver the notice under any other method of lawful service.

Cite as Ga. Comp. R. & Regs. R. 80-11-1-.09

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-1012**,** 7-1-1017**.**

HISTORY: Original Rule entitled "Electronic Service of Notice of Intent to Deny, Revoke, or Suspend License or Registration" adopted. F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-11. RESIDENTIAL MORTGAGE BROKERS, LENDERS AND ORIGINATORS

Subject 80-11-2. BOOKS AND RECORDS

80-11-2-.01 Mortgage Broker and Lender Location Requirement and Minimum Retention Period

(1) Any mortgage broker or lender required to be licensed or registered under Article 13 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated ("licensee" or "registrant") must maintain required books, accounts and records at the principal place of business. Should a licensee or registrant wish to maintain such records elsewhere, it must notify the department in writing via the Nationwide Multistate Licensing System and Registry prior to said books, accounts, and records being maintained in any place other than the designated principal place of business.

(2) Books, accounts and records maintained at a location other than the principal place of business shall be made available to the department within five (5) business days from the date of written request by the department and at a reasonable and convenient location acceptable to the department.

(3) "Principal place of business" means the location designated as the main office by the licensee or registrant in the initial written application for licensure or registration or as amended thereafter in writing to the department.

(4) All books, records and accounts required by Rule 80-11-2-.02(1)(b), (c), (d), (e), (f), (g), (h), (j), and (m) and Rule 80-11-2-.03 must be maintained for a period of five (5) years. All books, records and accounts required by Rule 80-11-2-.02(1)(a), (i), (k) and (l) and by Rule 80-11-2-.04 must be maintained and kept complete for a period of five (5) years from the final disposition of the loan application to which the records relate (e.g. five (5) years from date application denied or cancelled or five years from date mortgage loan closed). All books, records, and accounts required by Rule 80-11-2-.02(1)(n) must be maintained for a period of five (5) years from the date of the employee no longer working for the licensee.

(5) Any books, accounts or records required to be maintained by Chapter 80-11-2 of the Rules of the Department of Banking and Finance may be maintained in their original form, on microfiche or other electronic media, provided:

(a) that the records shall be made available to the department as provided in this Rule; and

(b) at the request of the department, the records shall be printed on paper for inspection or examination.

(6) (a) The penalty for maintaining books, accounts and records at a location other than the principal place of business without written notification to the department may be suspension of the license or registration, other appropriate administrative action or fine.

(b) The penalty for refusal to permit an investigation or examination of books, accounts and records (after a reasonable request by the department) shall be revocation of the license or registration.

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

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-1009**,** 7-1-1012**.**

HISTORY: Original Rule entitled "Location Requirement and Minimum Retention Period" adopted. F. July 11, 1994; eff. July 31, 1994.

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

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

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

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

Repealed: New Rule entitled "Mortgage Broker and Lender Location Requirement and Minimum Retention Period" adopted. F. Aug. 17, 2009; eff. Sept. 6, 2009.

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

Amended: F. July 7, 2023; eff. July 27, 2023.

80-11-2-.03 Mortgage Loan Transaction Journal

(1) Any person who is acting as a mortgage broker and who is required to be licensed under Article 13 of Title 7, whether as a broker or a lender ("licensee"), shall maintain a journal of mortgage loan transactions which shall include, at a minimum, the following information:

(a) Full name of proposed borrower and all co-borrowers, and the last four digits of their social security number(s);

(b) Date customer applied for the mortgage loan;

(c) Name and Nationwide Mortgage Licensing System and Registry (NMLSR) unique identifier of the loan officer responsible for the loan application whose name also appears on the application;

(d) Disposition of the mortgage loan application and date of disposition. The journal shall indicate the result of the loan transaction. The disposition of the application shall be categorized as one of the following: loan closed, loan denied, application withdrawn, application in process or other (explanation); and

(e) The journal shall clearly identify if the mortgage loan originator utilized temporary authority to operate at any point in the application or loan process. For such mortgage loan originators that utilize temporary authority, the journal should also identify the final status of the mortgage loan originator's Georgia license application as one of the following: approved, withdrawn, or denied.

(2) A complete mortgage loan transaction journal shall be maintained in the principal place of business. The journal shall be kept current. Records may be kept at a branch but the principal place of business must have a current journal updated no less frequently than every seven (7) days. The failure to initiate an entry to the journal within seven (7) business days from the date of the occurrence of the event required to be recorded in the journal shall be deemed a failure to keep the journal current.

(3) Failure to maintain the mortgage loan journal or to keep the journal current (incidental and isolated clerical errors or omissions shall not be considered a violation) may be grounds for suspension or revocation of the license or other appropriate administrative action and will subject the licensee to fines in accordance with regulations prescribed by the department.

(4) Loan processors who are required to be licensed shall be required to keep a mortgage loan transaction journal to the extent they receive information that is required by law or rule to be in the journal. Such journal shall at a minimum include for each loan the full name of the borrower(s), the name and NMLSR unique identifier of the mortgage broker or lender for whom the processing was performed; the name and the NMLSR unique identifier of the mortgage loan originator for whom the processing was performed, and the dates the loan application was received and returned to such lender or broker. If a processor performs other duties of a broker aside from

processing the loan, the processor/broker shall be responsible for keeping the same information as a broker, as provided in subsection (1) of this rule.

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

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-1009**,** 7-1-1012**.**

HISTORY: Original Rule entitled "Mortgage Loan Transaction Journal" adopted. F. July 11, 1994; eff. July 31, 1994.

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

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

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

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

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

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

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

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-11. RESIDENTIAL MORTGAGE BROKERS, LENDERS AND ORIGINATORS

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 a covered employee as defined in O.C.G.A. § 7-1-1000(5.1) who is a felon as described in O.C.G.A. § 7-1-1004(i), which covered employee has not complied with the remedies provided for in O.C.G.A. § 7-1-1004(i), may be fined five thousand dollars ($5,000) per covered 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(p) 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) Failure to Maintain Documentation for Securitization Transfer Exemption. Any licensee who sells or otherwise transfers closed mortgage loans to an unlicensed person who purports to be exempt from licensure pursuant to O.C.G.A. § 7-1-1001(a)(19) and fails to maintain documentation showing the purpose of the transfer and applicable time limitation as required by Rule 80-11-2-.02(1)(p) shall be subject to a fine of one thousand dollars ($1,000) per loan transferred to the unlicensed entity.

(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) Unauthorized Access to Customer Information. Any mortgage broker or mortgage lender licensee that fails to provide the Department with notice of unauthorized access to customer information as required by Rule 80-11-1-.07 shall be subject to a fine of one thousand dollars ($1,000) a day until the notice is provided.

(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 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(p) 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 that does not obtain a criminal background check on each covered employee prior to the initial date of hire, retention, or transition of an existing employee to a covered employee as set forth in Rule 80-11-1-.05(1) shall be subject to a fine of one thousand dollars ($1,000) per occurrence.

(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) Reserved.

(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 Multistate 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 Multistate Licensing System and Registry. Any licensed mortgage broker, mortgage lender, or registrant 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 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**,** 7-1-1004**,** 7-1-1012**,** 7-1-1014**,** 7-1-1017**,** 7-1-1018**.**

HISTORY: Original Rule entitled "Administrative Fines" adopted. F. July 14, 1998; eff. August 3, 1998.

Amended: F. July 12, 1999; eff. August 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. August 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.

Note: Rule 80-11-3-.01 (Supersede "Note" effective July 15, 2021.), the incorrect version of the Rule was inadvertently filed January 8, 2021 (effective January 28, 2021) and was posted on the Rules and Regulations website February 5, 2021 through August 4, 2021. The correct Rule, as originally promulgated and adopted, was updated on the Rules and Regulations August 5, 2021; with the original filed and effective date, January 8, 2021 and January 28, 2021 respectively, as specified by the Agency. Effective August 5, 2021.

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-11. RESIDENTIAL MORTGAGE BROKERS, LENDERS AND ORIGINATORS

Subject 80-11-5. MORTGAGE LOAN ORIGINATOR LICENSURE AND OTHER REQUIREMENTS

80-11-5-.04 Renewals

(1) Mortgage loan originator licenses shall expire on December 31st of each calendar year. A mortgage loan originator must meet the following requirements in order to have his or her license renewed:

(a) A mortgage loan originator must continue to meet the minimum standards for license issuance.

(b) Timely submission of a complete renewal application and corresponding fee.

(c) A mortgage loan originator must satisfy the continuing education requirements of O.C.G.A. § 7-1-1004(h). The applicant must obtain on an annual basis eight (8) hours of approved continuing education in mortgage courses from an NMLSR approved provider. Of these eight (8) hours, seven (7) hours must be obtained in course work addressing the subjects identified in O.C.G.A. § 7-1-1004(h)(1), and at least one (1) hour of continuing education must be obtained in coursework addressing the Georgia Residential Mortgage Act, specifically any changes made to the statute and its corresponding regulations.

(d) Courses taken to meet the approved continuing education requirements of the NMLSR for any state shall be accepted as credit towards continuing education requirements in Georgia, with the exception that one (1) hour of the required courses must cover laws and regulations related to Georgia mortgage licensure, not that of another state.

(e) Continuing education credits are only valid in the calendar year in which the courses are taken. Credits earned during November 1 through December 31 will be excluded from consideration for continuing education credit hours earned for the subsequent renewal period. When continuing education hours are obtained by a mortgage loan originator, only credit hours obtained from January 1 to October 31 shall be considered for purposes of meeting the eight (8) hours of continuing education required in the subsequent renewal period.

(f) 1. Upon submitting an application to renew a license, failure to document to the Department's satisfaction proof of completion of eight (8) continuing education hours by October 31 may subject the licensee to a fine. The failure to document proof of completion of these hours and to pay any assessed fine by December 31 shall result in the expiration of the mortgage loan originator's license without notice or hearing.

2. A mortgage loan originator whose license has been inactive for less than three (3) years shall provide proof of completion of the continuing education requirements for the last year in which the license was held in order to reinstate it. Should reinstatement of an expired license be sought for a license that has been inactive for five (5) years or more, such reinstatement application will require that the applicant again meet the testing requirements set forth in O.C.G.A. § 7-1-1004(g). If a person has worked as a registered loan originator at any time during the lapsed license period, the period of time the registered mortgage loan officer was employed in this capacity shall not count toward the calculation of the time period for the continuing education and testing requirements of this paragraph.

3. In the following circumstances the prelicensing education course will expire, which shall require the individual to complete an additional 20 hours of prelicensing education in order to be eligible for a mortgage loan originator license. An individual's prelicensing education shall expire if he/she:

(i) fails to acquire a valid license or work as a registered loan originator within three years from the date of initial completion of any approved prelicensing education course; or

(ii) has obtained a license or worked as a registered loan originator but subsequently did not maintain an active license or work as a registered loan originator for three years or more.

Cite as Ga. Comp. R. & Regs. R. 80-11-5-.04

AUTHORITY: O.C.G.A. §§ 7-1-1004(f)(4)**,** 7-1-1004.2**,** 7-1-1005**.**

HISTORY: Original Rule entitled "Renewals" adopted. F. Aug. 17, 2009; eff. Sept. 6, 2009.

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

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

Amended: F. July 7, 2023; eff. July 27, 2023.

80-11-5-.09 Temporary Authority to Operate

(1) A mortgage loan originator purporting to operate under the temporary authority requirements set forth in 12 U.S.C. §5117 is jointly responsible with the mortgage loan originator's sponsor for ensuring that the required disclosure under Rule 80-11-1-.01(11) is provided. Nothing herein shall be construed as requiring a mortgage loan originator and the mortgage loan originator's sponsor to provide a duplicate of the required disclosure under Rule 80-11-1-.01(11).

(2) A mortgage loan originator purporting to operate under the temporary authority requirements set forth in 12 U.S.C. §5117 must indicate "TAO," "temporary authority to operate," or a substantially similar designation next to the signature line on any document, application, or disclosure signed by the mortgage loan originator in connection with any residential mortgage loan application, including but not limited to the negotiation of terms or the offering of a loan.

(3) Unless the following requirements have been satisfied, any mortgage loan originator who qualifies to operate under the temporary authority provisions of 12 U.S.C. §5117 must submit proof to the Department of enrollment in a class to satisfy the education requirements set forth in O.C.G.A. § 7-1-1004(f) as well as registering to take the test as required by O.C.G.A. § 7-1-1004(g). Such proof shall be submitted to the Department within thirty (30) days of receipt of the mortgage loan originator's application.

Cite as Ga. Comp. R. & Regs. R. 80-11-5-.09

AUTHORITY: O.C.G.A. §§ 7-1-1001.1**,** 7-1-1012**.**

HISTORY: Original Rule entitled "Temporary Authority to Operate" adopted. F. Dec. 20, 2019; eff. Jan. 9, 2020.

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-13. TRUST COMPANIES

Subject 80-13-1. TRUST COMPANIES

80-13-1-.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 a covered employee as defined in O.C.G.A. § 7-1-1000(5.1) who is a felon as described in O.C.G.A. § 7-1-1004(i), which covered employee has not complied with the remedies provided for in O.C.G.A. § 7-1-1004(i), may be fined five thousand dollars ($5,000) per covered 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(p) 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) Failure to Maintain Documentation for Securitization Transfer Exemption. Any licensee who sells or otherwise transfers closed mortgage loans to an unlicensed person who purports to be exempt from licensure pursuant to O.C.G.A. § 7-1-1001(a)(19) and fails to maintain documentation showing the purpose of the transfer and applicable time limitation as required by Rule 80-11-2-.02(1)(p) shall be subject to a fine of one thousand dollars ($1,000) per loan transferred to the unlicensed entity.

(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) Unauthorized Access to Customer Information. Any mortgage broker or mortgage lender licensee that fails to provide the Department with notice of unauthorized access to customer information as required by Rule 80-11-1-.07 shall be subject to a fine of one thousand dollars ($1,000) a day until the notice is provided.

(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 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(p) 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 that does not obtain a criminal background check on each covered employee prior to the initial date of hire, retention, or transition of an existing employee to a covered employee as set forth in Rule 80-11-1-.05(1) shall be subject to a fine of one thousand dollars ($1,000) per occurrence.

(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) Reserved.

(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 Multistate 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 Multistate Licensing System and Registry. Any licensed mortgage broker, mortgage lender, or registrant 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 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. 80-13-1-.01

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-1004**,** 7-1-1012**,** 7-1-1014**,** 7-1-1017**,** 7-1-1018**.**

HISTORY: Original Rule entitled "Administrative Fines" adopted. F. July 14, 1998; eff. August 3, 1998.

Amended: F. July 12, 1999; eff. August 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. August 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.

Note: Rule 80-11-3-.01 (Supersede "Note" effective July 15, 2021.), the incorrect version of the Rule was inadvertently filed January 8, 2021 (effective January 28, 2021) and was posted on the Rules and Regulations website February 5, 2021 through August 4, 2021. The correct Rule, as originally promulgated and adopted, was updated on the Rules and Regulations August 5, 2021; with the original filed and effective date, January 8, 2021 and January 28, 2021 respectively, as specified by the Agency. Effective August 5, 2021.

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-13-1-.10 Collective Investment Funds

A trust company administering a collective investment fund authorized under O.C.G.A. § 7-1-313 shall comply with the following requirements:

(1) The trust company shall develop, and the Board of Directors must approve, a collective investment fund plan that must contain appropriate provisions, not inconsistent with this part, regarding the manner in which the trust company will operate the fund, including provisions relating to:

(a) Investment powers and policies with respect to the fund;

(b) Allocation of income, profits, and losses;

(c) Fees and expenses that will be charged to the fund and to participating accounts;

(d) Terms and conditions governing the admission and withdrawal of participating accounts;

(e) Audits of participating accounts;

(f) Basis and method of valuing assets in the fund;

(g) Expected frequency for income distribution to participating accounts;

(h) Minimum frequency for valuation of fund assets;

(i) Amount of time following a valuation date during which the valuation must be made;

(j) Bases upon which the trust company may terminate the fund; and

(k) Any other matters necessary to define clearly the rights of participating accounts.

(2) A trust company administering a collective investment fund shall have exclusive management thereof, except as a prudent person might delegate responsibilities to others.

(2.1) Each participating account in a collective investment fund must have a proportionate interest in all the fund's assets.

(3) (a) A trust company administering a collective investment fund shall determine the value of the fund's readily marketable assets at least once every three months. A trust company shall determine the value of the fund's assets that are not readily marketable at least once a year.

(b) Except for short-term investment funds ("STIFs"), a trust company shall value each fund asset at mark-to-market value as of the date set for valuation, unless the trust company cannot readily ascertain mark-to-market value, in which case the trust company shall use a fair value determined in good faith. STIFs shall be valued as set forth in 12 C.F.R. §9.18.

(4) (a) At least once during each 12-month period, a trust company administering a collective investment fund shall arrange for an audit of the collective investment fund by auditors responsible to both the audit committee and the Board of Directors of the trust company.

(b) At least once during each 12-month period, a trust company administering a collective investment fund shall prepare a financial report of the fund based on the audit required by paragraph (4)(a) of this section. The report must disclose the fund's fees and expenses in a manner consistent with applicable law in the state in which the trust company maintains the fund. This report must contain a list of investments in the fund showing the cost and current market value of each investment, and a statement covering the period after the previous report showing the following (organized by type of investment):

1. A summary of purchases (with costs);

2. A summary of sales (with profit or loss and any other investment changes);

3. Income and disbursements; and

4. An appropriate notation of any investments in default.

(c) A trust company may include in the financial report a description of the fund's value on previous dates, as well as its income and disbursements during previous accounting periods. A trust company may not publish in the financial report any predictions or representations as to future performance.

(d) A trust company administering a collective investment fund shall provide a copy of the financial report, or shall provide notice that a copy of the report is available upon request without charge, to each person who ordinarily would receive a regular periodic accounting with respect to each participating account. The trust company may provide a copy of the financial report to prospective customers. In addition, the trust company may provide a copy of the report upon request to any person for a reasonable charge.

(5) A trust company administering a collective investment fund may charge a reasonable fund management fee only if:

(a) The fee is permitted under applicable law (and complies with fee disclosure requirements, if any); and

(b) The amount of the fee does not exceed an amount commensurate with the value of legitimate services of tangible benefit to the participating fiduciary accounts that would not have been provided to the accounts were they not invested in the fund.

(6) A trust company administering a collective investment fund may charge reasonable expenses incurred in operating the collective investment fund, to the extent not prohibited by applicable law in the state in which the trust company maintains the fund. However, a trust company shall absorb the expenses of establishing or reorganizing a collective investment fund.

(7) The Department will not deem a trust company's mistake made in good faith and in the exercise of due care in connection with the administration of a collective investment fund to be a violation of this rule if, promptly after the discovery of the mistake, the trust company takes whatever action is practicable under the circumstances to remedy the mistake.

Cite as Ga. Comp. R. & Regs. R. 80-13-1-.10

AUTHORITY: O.C.G.A. §§ 7-1-61**,** 7-1-313**.**

HISTORY: Original Rule entitled "Collective Investment Funds" adopted. F. June 29, 2017; eff. July 19, 2017.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-13-1-.14 Service Contracts

(1) A state-chartered trust company may contract with another financial institution or a third party service provider to provide certain services in a principal-agent relationship, provided both parties comply with the applicable rules and regulations of the Department.

(2) Agency relationships shall comport with safety and soundness principles to protect the financial integrity of the trust company and the accounts of its customers.

(3) A state-chartered trust company entering into a service contract with a third party service provider must maintain the following information on file at the trust company and shall not execute a contract with a third party service provider unless this information has been obtained:

(a) A copy of the contract under which the services are provided;

(b) A schedule of fees to be charged for each type of service to be performed;

(c) Written assurance from the third party service provider that:

1. The records of the trust company for which the services are to be performed will be subject to examination and regulation by the department as if the records were maintained by the trust company on its own premises;

2. The records of the trust company in the service provider's possession shall be available to examiners promptly upon receipt of notice;

3. The department shall have the authority to periodically review the internal routine and controls of the service provider to ascertain that the operations are being conducted in a sound manner in keeping with generally accepted trust company procedures and industry standards;

(d) A listing of all reports and printouts which the third party service provider is offering the trust company and the time required, after receipt of notice of examination, to provide those reports in readable form to the examiners; and

(e) Evidence of financial stability to include a copy of the third party service provider's most recent audit and financial statement, both of which should be aged no more than 18 months. This is a continuous requirement.

(4) A state-chartered trust company contracting with a third party service provider must employ good faith efforts to monitor the financial condition of the service provider and must notify the department immediately when it discovers or suspects that the service provider is insolvent or has suffered significant financial losses that threaten the continuing viability of the third party service provider.

(5) If a state-chartered trust company is required to disclose a service contract to a federal regulator, a duplicate of such disclosure will simultaneously be submitted to the Department.

(6) This rule is not intended to apply to non-fiduciary or non-representative capacity related operational or administrative functions which do not tend to impact the safety and soundness of the trust company or the accessibility to the Department of records.

Cite as Ga. Comp. R. & Regs. R. 80-13-1-.14

AUTHORITY: O.C.G.A. § 7-1-61**.**

HISTORY: Original Rule entitled "Service Contracts" adopted. F. July 7, 2023; eff. July 27, 2023.

80-13-1-.15 Service Contracts: Requirements of Third Party Service Providers

(1) Each third party service provider that enters into a service contract with a state-chartered trust company shall be subject to examination and regulation by the department as if the entity were a state financial institution, as authorized by O.C.G.A. § 7-1-72.

(2) In the event that a third party service provider has been examined by a federal agency that is a member of the Federal Financial Institutions Examination Council ("FFIEC"), or any successor entity, in the previous twenty-four (24) months and the department is provided a copy of the examination, the department shall accept the results of such examination in lieu of conducting its own examination. However, nothing contained herein, shall be construed as limiting or otherwise restricting the department from participating in such examination.

Cite as Ga. Comp. R. & Regs. R. 80-13-1-.15

AUTHORITY: O.C.G.A. § 7-1-61**.**

HISTORY: Original Rule entitled "Service Contracts: Requirements of Third Party Service Providers" adopted. F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-14. INSTALLMENT LOANS

Subject 80-14-1. PLACE OF BUSINESS, ADVERTISING, AND OTHER REQUIREMENTS

80-14-1-.02 Location Managers

(1) A "location manager" shall mean an individual who supervises daily activities in Georgia of a licensee, whether at a main office or branch as defined in Rule 80-14-1-.01, and regardless of job title.

(2) No individual shall be permitted to manage a location in Georgia without being approved by the Department as a location manager. A location manager may be put in place subject to Departmental approval, but the Department must receive a complete application for approval within 15 calendar days of the placement. No individual may serve as the location manager of more than one location of a licensee.

(3) The Department shall conduct a criminal background check and require such other pertinent information to satisfy itself that the location manager will operate the location responsibly and in compliance with the laws and rules of this state.

(4) Notwithstanding any approval of the location manager by the Department, the licensee has full and direct financial responsibility for the lending activities of each location manager and full and direct responsibility for the training and supervision of the location manager. The licensee will supervise the location and location manager on an ongoing and regular basis and shall be accountable for the lending activities of the location and location manager. Any violation of the Georgia Installment Loan Act or the rules and regulations of the Department by a location manager shall be deemed to be a violation by both the licensee and the location manager.

Cite as Ga. Comp. R. & Regs. R. 80-14-1-.02

AUTHORITY: O.C.G.A. §§ 7-3-32**,** 7-3-51**.**

HISTORY: Original Rule entitled "Location Managers" adopted. F. Aug. 19, 2020; eff. Sept. 8, 2020.

Amended: F. July 7, 2023; eff. July 27, 2023.

80-14-1-.03 Employee Background Checks; Covered Employees

(1) As required by O.C.G.A. § 7-3-42(e), applicants and licensees must have commercial background checks performed on all covered employees, as defined in O.C.G.A. § 7-3-3(2). Employees of an applicant or licensee who are not engaged in the installment loan business are not covered employees. Background checks on all covered employees must be completed and found satisfactory by an applicant prior to the issuance of a license or by a licensee prior to the initial date of hire of such covered employee. In the event the job responsibilities of an employee change so that the employee satisfies the covered employee definition in O.C.G.A. § 7-3-3(2), the required background check must be completed and found satisfactory prior to the change in job responsibilities.

(2) For purposes of O.C.G.A. § 7-3-42, an employee of a licensee is engaged in the installment loan business if he or she performs any of the following duties for a Georgia consumer:

(a) taking a loan application or offering or negotiating terms of an installment loan;

(b) entering, deleting, or verifying any information on an installment loan related document; or,

(c) communicating with a consumer regarding a specific installment loan, excluding communication by a third party for purposes of debt collection.

(3) Pursuant to O.C.G.A. § 7-3-42(e), applicants and licensees shall conduct criminal background checks by utilizing a commercial entity. The commercial entity shall be in the business of conducting criminal background checks. The criminal background checks conducted by the commercial entity must not have any time period limitations, geographic limitations, or restrictions in the search criteria, unless the time period limitation, geographic limitation, or other restriction on the background checks is required by applicable federal or state law. Any fees charged by the commercial entity for processing background checks must be paid by the applicant or licensee.

Cite as Ga. Comp. R. & Regs. R. 80-14-1-.03

AUTHORITY: O.C.G.A. §§ 7-3-3**,** 7-3-42**,** 7-3-51**.**

HISTORY: Original Rule entitled "Employee Background Checks; Covered Employees" adopted. F. Aug. 19, 2020; eff. Sept. 8, 2020.

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-14. INSTALLMENT LOANS

Subject 80-14-3. ADMINISTRATIVE FINES AND PENALITIES

80-14-3-.01 Administrative Fines

(1) The Department establishes the following fines for violation of the Georgia Installment Loan Act ("Act") or its rules. Except as otherwise indicated, these fines apply to any person who is acting as an installment lender and any licensee under the Act. The Department, at its sole discretion, may waive or reduce 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) In addition to any fines levied by the Department, the recipient of the fine may be subject to additional administrative actions for the same underlying activity.

(4) Operating Without Proper License. Any person who acts as an installment lender prior to receiving a current license required under the Act, or who acquires an unlicensed installment loan business, 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.

(5) Failure to Obtain Approval from the Department of Change in Ownership or Change in Control. Any licensee or other person who fails to obtain the Department's prior written approval of a change in 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. § 7-3-32 shall be subject to a fine of one thousand dollars ($1,000).

(6) Failure to Notify of Change in Executive Officers. 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. § 7-3-32 and shall be subject to a fine of one thousand dollars ($1,000).

(7) Unapproved Locations. In addition to the application, fee, and approval requirements of O.C.G.A. § 7-3-32(a), any licensee who operates an unapproved branch office shall be subject to a fine of five hundred dollars ($500) per unapproved branch office operated.

(8) Location Manager Approval. Any licensee shall be subject to a fine of five hundred dollars ($500) for operation of a location with an unapproved location manager. No such fine shall be levied while Department approval is pending if timely application for approval is made pursuant to Rule 80-14-1-.02.

(9) Felons. Any licensee that hires or retains a covered employee who is a felon as described in O.C.G.A. § 7-3-42(a), when such covered employee has not complied with the remedies provided for in O.C.G.A. § 7-3-42(a) for each conviction before such employment, shall be subject to a fine of five thousand dollars ($5,000) for each such covered employee.

(10) Background Checks on Employees. Any licensee that does not obtain a criminal background check on each covered employee prior to the initial date of hire, retention, or transition of an existing employee to a covered employee as set forth in Rule 80-14-1-.03(1) shall be subject to a fine of one thousand dollars ($1,000) per

occurrence. Proof of the required 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 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.

(11) Disqualified Persons. Any licensee who employs any person subject to a final cease and desist order or license revocation within five (5) years of the date such person was hired pursuant to O.C.G.A. § 7-3-43(d) and (e) shall be subject to a fine of five thousand dollars ($5,000) per such employee.

(12) 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. § 7-3-43(d) or (e) 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.

(13) Prohibited Acts. Any licensee who violates the provisions of O.C.G.A. § 7-3-43 shall be subject to a fine of one thousand dollars ($1,000) per violation or transaction that is in violation of O.C.G.A. § 7-3-43.

(14) Failure to Timely Report Certain Events. Any licensee who fails to report any of the events enumerated in O.C.G.A. § 7-3-31(a), 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.

(15) 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 as specified by the Department within the designated time periods shall be subject to a fine of one hundred dollars ($100) for each such occurrence.

(16) Failure to Timely Disclose Change in Affiliation of Natural Person that Executed Lawful Presence Affidavit and Submission of New Affidavit. Any licensee 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 licensee 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.

(17) 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.

(18) Failure to Submit to Examination or Investigation. Any licensee that refuses to permit an investigation or examination of books, accounts, and records after a reasonable request by the Department shall be subject to a fine of five thousand dollars ($5,000). Refusal shall require at least two attempts by the Department to schedule an examination or investigation.

(19) 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. § 7-3-30 and Rule Chapter 80-14-2, such licensee shall be subject to a fine of one thousand dollars ($1,000) for each violation of a books and records requirement listed in Rule Chapter 80-14-2.

(20) Maintenance of Loan Files. Any licensee who fails to maintain a loan file for each installment loan borrower as required by Rule 80-14-2-.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.

(21) Failure to Provide Loan Contract or Loan Contract that Does Not Comply with Applicable Laws and Rules. In the event a licensee does not provide a consumer with a copy of the loan contract or written itemized statement as required by O.C.G.A. § 7-3-15 and Rule 80-14-5-.01 or a copy of a loan contract or written itemized statement that satisfies the requirements of O.C.G.A. § 7-3-15 and Rule 80-14-5-.01, the licensee shall be subject to a fine of one thousand dollars ($1,000) per transaction where either a loan contract or itemized statement was not provided or a loan contract or itemized statement that satisfies the requirements of O.C.G.A. § 7-3-15 and Rule 80-14-5-.01 was not provided.

(22) Failure to Provide Receipt. In the event a licensee does not provide a consumer with a written receipt as required in Rule 80-14-5-.01(7), the licensee shall be subject to a fine of one hundred dollars ($100) per payment for which the receipt was not provided.

(23) Failure to Post Required License. Any licensee that fails to post a copy of its license in each location where an installment loan business is conducted shall be subject to a fine of five hundred dollars ($500) for each instance of non-compliance.

(24) Advertising. Any licensee who violates the advertising requirements in O.C.G.A. § 7-3-10 or Rule 80-14-1-.04 shall be subject to a fine of five hundred dollars ($500) for each violation of law or rule.

(25) Unsolicited Live Checks. Any licensee who offers an unsolicited live check in a manner that violates any of the conditions of Rule 80-14-5-.04 shall be subject to a fine of one thousand dollars ($1,000) for each occurrence, which in no event shall exceed fifty thousand dollars ($50,000).

(26) Debt Collection Practices. In the event any licensee, or employee or agent thereof, willfully uses any unreasonable collection tactics in violation of O.C.G.A. § 7-3-33 or Rule 80-14-5-.05(2), such licensee shall be subject to a fine of five hundred dollars ($500) per occurrence.

(27) 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.

(28) Unauthorized Access to Customer Information. Any licensee that fails to provide the Department with notice of unauthorized access to customer information as required by Rule 80-14-1-.05 shall be subject to a fine of one thousand dollars ($1,000) a day until such notice is provided.

(29) Maintenance of Service Files. Any licensee who acts as an installment loan servicer as defined at Rule 80-14-6-.01(2) who fails to maintain a servicer file for each installment loans it services, as required by Rule 80-14-6-.03(1)(a), 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.

(30) Failure to Adhere to Loan Servicing Standards. Any licensee who acts an installment loan servicer as defined at Rule 80-14-6-.01(2) who fails to adhere to the installment loan servicing standards, as required by Rule 80-14-6-.02, shall be subject to a fine of one thousand dollars ($1,000) per occurrence.

Cite as Ga. Comp. R. & Regs. R. 80-14-3-.01

AUTHORITY: O.C.G.A. §§ 7-3-44**,** 7-3-46**,** 7-3-51**.**

HISTORY: Original Rule entitled "Administrative Fines" adopted. F. Aug. 19, 2020; eff. Sept. 8, 2020.

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-14. INSTALLMENT LOANS

Subject 80-14-4. LICENSING

80-14-4-.05 Determining Location of Loan

O.C.G.A. § 7-3-4 provides that no person shall make installment loans in this state without a license unless such person is exempt from the requirements of licensure. For a transaction requested in person, "in this state" means at a physical location within this state. For a transaction requested electronically or by telephone, the installment lender may determine if the person requesting the transaction is "in this state" by relying on information provided by the person regarding the location of an individual's residence, and any records associated with the person that the installment lender may have that indicate such location, including but not limited to an address associated with an account.

Cite as Ga. Comp. R. & Regs. R. 80-14-4-.05

AUTHORITY: O.C.G.A. §§ 7-3-4**,** 7-3-51**.**

HISTORY: Original Rule entitled "Transition to Department" adopted. F. Aug. 19, 2020; eff. Sept. 8, 2020.

Amended: New title, "Determining Location of Loan." F. July 7, 2023; eff. July 27, 2023.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-14. INSTALLMENT LOANS

Subject 80-14-6. INSTALLMENT LOAN SERVICING

80-14-6-.01 Definitions

(1) As used in Chapter 80-14-6, the terms that are defined in O.C.G.A. §§ 7-1-4 and 7-3-3 shall have the identical meaning.

(2) As used in Chapter 80-14-6, the below terms shall be defined as follows unless the term is otherwise defined in a specific rule:

(a) "Installment loan servicer" means any person that services installment loans made by others.

(b) "Notice of error" means any written notice from the borrower that asserts an error and that includes the name of the borrower, information that enables the installment loan servicer to identify the borrower's loan account, and the error the borrower believes has occurred. A notice on a payment coupon or other payment form supplied by the installment loan servicer need not be treated by the installment loan servicer as a notice of error.

(c) "Service an installment loan" means the collection or remittance or the right to collect or remit payments of principal, interest, trust items such as insurance and taxes, and any other payments pursuant to the terms of an installment loan.

Cite as Ga. Comp. R. & Regs. R. 80-14-6-.01

AUTHORITY: O.C.G.A. § 7-3-51**.**

HISTORY: Original Rule entitled "Definitions" adopted. F. July 7, 2023; eff. July 27, 2023.

80-14-6-.02 Installment Loan Servicing Standards

(1) The standards set forth in this Rule apply only to persons licensed or required to be licensed under Chapter 3 of Title 7 of the Official Code of Georgia Annotated as installment lenders that act as installment loan servicers.

(2) Any person who acts as an installment loan servicer:

(a) Shall act with reasonable skill, care, and diligence;

(b) Shall not charge fees for:

1. Handling borrower disputes;

2. Facilitating routine borrower collections;

3. Arranging repayment plans;

4. Sending borrowers notice of nonpayment; and

5. Updating records to reinstate an installment loan.

(c) Shall have an error resolution process for all borrowers, which must, at a minimum:

1. Acknowledge receipt of a borrower's notice of error within 10 business days of receipt;

2. Conduct a reasonable investigation; and

3. Within 45 days, provide a borrower with a written notification of:

(i) the correction of error; or

(ii) the installment loan servicer's determination that no error occurred and the reason for such determination.

(4) Each installment loan servicer shall, at the time the installment loan servicer acquires the right to service the installment loan, make the following initial disclosures in writing to borrowers:

(a) A complete and current schedule of fees;

(b) The name, address, and an email address or toll-free telephone number for an employee or department of the installment loan servicer that can be contacted by the borrower regarding servicing; and

(c) A statement of the installment loan servicer standards set forth in Paragraph (2) of this Rule including a description of the installment loan servicer's error resolution process as required by Paragraph (2)(c).

(5) If an installment loan servicer discovers a violation of these standards, the installment loan servicer:

(a) Has a duty to mitigate the harm to the borrower; and

(b) Shall maintain a record of such violation in accordance with Rule 80-14-6-.03(1)(b).

(6) Loans that a licensee has purchased or otherwise acquired through one of the methods provided at O.C.G.A. § 7-3-32(f), or by way of acquisition of a branch office that has been approved by the Department pursuant to O.C.G.A. § 7-3-32(c), are exempt from the requirements of this Rule so long as such acquired loans are serviced according to their underlying terms.

(7) Failure to adhere to these standards may result in revocation of the license and will subject the licensee to fines in accordance with regulations prescribed by the Department, including Rule Chapter 80-14-3.

Cite as Ga. Comp. R. & Regs. R. 80-14-6-.02

AUTHORITY: O.C.G.A. § 7-3-51.

HISTORY: Original Rule entitled "Installment Loan Servicing Standards" adopted. F. July 7, 2023; eff. July 27, 2023.

80-14-6-.03 Minimum Requirements for Books and Records

(1) Irrespective of the requirements set forth at Rule 80-14-2-.02, each installment loan servicer must maintain the following books, accounts, and records:

(a) Servicer file for each installment loan that it services. The servicer file must contain the following:

1. the name of each borrower;

2. copies of all loan agreements, contracts, deeds, assignments, letters, notes, and memos regarding the borrower;

3. documents related to assignment, sale, or transfer of installment loan servicing;

4. copies of all disclosures or notices provided to the borrower by the installment loan servicer as required by law, including Rule 80-14-6-.02;

5. copies of all written requests for information received from the borrower and the installment loan servicer's response to such requests as required by law;

6. full payment history that identifies and itemizes all payments made by or on behalf of the borrower and which contains the following:

(i) date each payment was made;

(ii) amount of each payment made;

(iii) remaining balance on account;

(iv) any late charge collected with the date on which the late charge was collected.

7. If the installment loan servicer defers installment loans, the deferred loan monthly journal required by O.C.G.A. § 7-3-11(6)(G);

8. a communications log, which documents all verbal communication with the borrower or the borrower's representative;

9. records regarding the final disposition of the installment loan including a copy of any collateral release document, records of servicing transfers, or charge-off information; and

10. an electronic system of record that can generate a report of every receipt or disbursement of funds for a requested period of time. All such entries shall be made on the exact date on which they occur. This system shall be balanced daily.

(b) A list of all the installment loan servicer's violations, if any, of the installment loan servicer standards set forth in Rule 80-14-6-.02.

(2) Loans that a licensee has purchased or otherwise acquired through one of the methods provided at O.C.G.A. § 7-3-32(f), or by way of acquisition of a branch office that has been approved by the Department pursuant to O.C.G.A. § 7-3-32(c), are exempt from the requirements of Paragraph (1) of this Rule so long as any such acquired loans are reported on the licensee's loan transaction journal pursuant to Rule 80-14-2-.03.

(3) Failure to maintain the books, accounts, and records required under Paragraph (1) of this Rule may result in revocation of the license or other appropriate administrative action and will subject the licensee to fines in accordance with regulations prescribed by the Department.

Cite as Ga. Comp. R. & Regs. R. 80-14-6-.03

AUTHORITY: O.C.G.A. § 7-3-51.

HISTORY: Original Rule entitled "Minimum Requirements for Books and Records" adopted. F. July 7, 2023; eff. July 27, 2023.

80-14-6-.04 Reports of Condition

(1) Each installment loan servicer shall submit to the Nationwide Multistate Licensing System and Registry or through other means specified by the Department timely reports of condition in accordance with O.C.G.A. § 7-3-30 and Rule 80-14-4-.04(4) containing information detailing the installment loan servicer's activities, including, but not limited to:

(a) The number of installment loans serviced;

(b) Delinquency status of installment loans serviced; and

(c) The number of installment loan modifications.

(2) Failure to submit the timely reports of condition required under Paragraph (1) of this Rule may result in revocation of the license or other appropriate administrative action and will subject the licensee to fines in accordance with regulations prescribed by the Department.

Cite as Ga. Comp. R. & Regs. R. 80-14-6-.04

AUTHORITY: O.C.G.A. § 7-3-51**.**

HISTORY: Original Rule entitled "Reports of Condition" adopted. F. July 7, 2023; eff. July 27, 2023.

Department 160. RULES OF GEORGIA DEPARTMENT OF EDUCATION

Chapter 160-4.

Subject 160-4-2. DIVISION OF GENERAL INSTRUCTION

160-4-2-.13 Statewide Passing Score

(1) **DEFINITION**.

(a) **Minimum passing score** - the lowest possible score that a student can earn and still meet the requirements for completion of a subject or grade.

(b) **Georgia Milestones End-of-Course (EOC) -** assessments administered at the completion of core high school courses specified by the State Board of Education, in accordance with O.C.G.A. § 20-2-281(f), to measure student achievement in the four content areas of English/Language Arts, Mathematics, Science, and Social Studies.

(2) **REQUIREMENTS**.

(a) Each local board of education shall establish 70 as the minimum passing score for all subjects/courses taught in grades 4-12 in the public schools of the state.

(b) Each school containing any grade 9-12 shall record and maintain numerical grades of students in all courses for which credit is given in those courses.

(c) If letter grades instead of numerical grades are given in grades 4-8, the local board of education shall determine the relationship of letter grades to the numerical passing score of 70.

(d) The Georgia Milestones EOC shall be used as the final exam in the courses assessed by a Georgia Milestones EOC. Georgia Milestones EOC reports shall provide students, parents, and educators with individual scores on each EOC taken; student scores must be recorded on, in, or with the individual student report card.

(e) Beginning with the 2023-2024 school year, the numeric score on the Georgia Milestones EOC shall count for at least 10% of the student's final numeric grade in the course assessed by the Georgia Milestones EOC.

Cite as Ga. Comp. R. & Regs. R. 160-4-2-.13

AUTHORITY: O.C.G.A. §§ 20-2-240**,** 20-2-281.

HISTORY: Original Rule entitled "Statewide Passing Score" adopted. F. Nov. 30, 1990; eff. Dec. 20, 1990.

Amended: F Aug. 8, 2002; eff. Aug. 28, 2002.

Amended: F. Jan. 9, 2004; eff. Jan. 29, 2004.

Amended: F. July 12, 2004; eff. August 1, 2004.

Amended: Apr. 13, 2011; eff. May 3, 2011.

Amended: F. Nov. 7, 2014; eff. Nov. 27, 2014.

Amended: F. Dec. 21, 2020; eff. Jan. 10, 2021.

Amended: F. July 20, 2023; eff. Aug. 9, 2023.

Department 250. RULES OF GEORGIA STATE BOARD OF FUNERAL SERVICE

Chapter 250-6. ESTABLISHMENT/CREMATORY LICENSURE AND REGULATIONS

250-6-.08 Determination of Funeral Director in Full and Continuous Charge

(1) The Board shall have the authority to evaluate each application for a funeral establishment or crematory license to determine whether the funeral director has the ability to be accessible and available to the community if the funeral director does not spend a minimum of forty (40) hours per week in the employ and operation of the establishment. The Board may then approve an application where the funeral director does not satisfy the specific requirement to spend a minimum of forty (40) hours per week in the employ and operation of the establishment or crematory if the Board is satisfied that the funeral director will be accessible and available to the community.

(2) The individual approved by the Board to serve as the Funeral Director in Full and Continuous Charge may only serve in this capacity at one (1) funeral establishment, but may also serve as the Funeral Director in Full and Continuous Charge at a crematory if the crematory is located at the same physical address as the approved funeral establishment, provided that the funeral establishment and crematory are licensed under the same ownership. If the crematory offers their services directly to the public, a different Funeral Director in Full and Continuous Charge would be required. In determining whether the funeral director possesses the ability to be accessible and available to the community, the Board will consider;

(a) the proximity of the funeral director's other employment and/or residence to the funeral establishment;

(b) the funeral director's ability to obtain leave from his/her other job in order to attend to the affairs of the funeral establishment; and

(c) any other information which relates to the ability of the funeral director to adequately supervise the operation of the funeral establishment.

(3) A funeral director may not serve as Funeral Director in Full and Continuous Charge if they are currently serving criminal probation for any felony or crime of moral turpitude, unless the funeral director is the owner of the establishment where they serve or plan to serve as Funeral Director in Full and Continuous Charge. Additionally, a funeral director may not serve as Funeral Director in Full and Continuous Charge if they have been disciplined or sanctioned by any licensing authority in any state, including Georgia, without first appearing before the Board, and such discipline or sanction may be a basis for denial of the application to serve as Funeral Director in Full and Continuous Charge.

Cite as Ga. Comp. R. & Regs. R. 250-6-.08

AUTHORITY: O.C.G.A. § 43-18-23**.**

HISTORY: Original Rule entitled "Determination of Funeral Director in Full and Continuous Charge" was renumbered from 250-6-.06 to 250-6-.08. F. Jan. 30, 1996; eff. Feb. 19, 1996.

Amended: F. July 19, 2017; eff. August 8, 2017.

Amended: F. Oct. 16, 2018; eff. Nov. 5, 2018.

Amended: F. Dec. 9, 2022; eff. Dec. 29, 2022.

Amended: F. July 20, 2023; eff. Aug. 9, 2023.

Department 391. RULES OF GEORGIA DEPARTMENT OF NATURAL RESOURCES

Chapter 391-3. ENVIRONMENTAL PROTECTION

Subject 391-3-4. SOLID WASTE MANAGEMENT

391-3-4-.01 Definitions

(1) "Active Life" means the period of operation beginning with the initial receipt of solid waste and ending at completion of closure activities.

(2) "Active Portion" means that part of a solid waste handling facility or landfill unit that has received or is receiving wastes and that has not been closed.

(3) "Aquifer" means a geological formation, group of formations, or portion of a formation capable of yielding significant quantities of ground water to wells or springs.

(4) "Affected County" means, in addition to the county in which a facility is or is proposed to be located, each county contiguous to the host county and each county and municipality within a county that has a written agreement with the facility to dispose of solid waste.

(5) "Asbestos-Containing Waste" means any solid waste containing more than 1 percent, by weight, of naturally occurring hydrated mineral silicates separable into commercially used fibers, specifically the asbestiform varieties of serpentine, chrysotile, cummingtonite-grunerite, amosite, riebeckite, crocidolite, anthophyllite, tremolite, and actinolite, using the method specified in 40 CFR, Part 763, Subpart E, Appendix E, Section 1.

(6) "Baling" means a volume reduction technique whereby solid waste is compressed into bales.

(7) "Biomedical Waste" means any solid waste which contains pathological waste, biological waste, cultures, and stocks of infectious agents and associated biologicals, contaminated animal carcasses (body parts, their bedding, and other waste from such animals), chemotherapy waste, discarded medical equipment and parts, not including expendable supplies and materials, which have not been decontaminated, as further defined in Rule 391-3-4-.15.

(8) "Boiler" means a device as defined in Chapter 391-3-11, the Rules for Hazardous Waste Management.

(9) "Bulking Agent" means the non-reactive, solid material that is used to reduce the moisture content of waste via a physical process such that the waste no longer meets the definition of Liquid Waste as defined in these rules.

(10) "CCR Landfill" means an area of land or an excavation that receives CCR and which is not a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground or surface coal mine, or a cave. For purposes of this Chapter, a CCR landfill also includes sand and gravel pits and quarries that receive CCR, CCR piles, and any practice that does not meet the definition of a beneficial use of CCR. This definition includes both active and inactive landfills.

(11) "CCR Surface Impoundment" means a natural topographic depression, man-made excavation, or diked area owned or operated by an electric utility or independent power producer, which is designed to hold an accumulation of CCR and liquids, and the unit treats, stores, or disposes of CCR. This definition includes both active and inactive surface impoundments, new and lateral expansions of surface impoundments, dewatered surface impoundments, and NPDES-CCR surface impoundments.

(12) "CCR Unit" means any CCR landfill, CCR surface impoundment, or the lateral expansion of such landfill or impoundment, or a combination of more than one of these units, based on the context of the paragraph(s) in which it is used. This term includes both new and existing units, unless otherwise specified.

(13) "Certificate" means a document issued by a college or university of the University System of Georgia or other organization approved by the Director, stating that the operator has met the requirements of the Board for the specified operator classification of the certification program.

(14) "Closure" means a procedure approved by the Division which provides for the cessation of waste receipt at a solid waste disposal site and for the securing of the site in preparation for post-closure.

(15) "Coal Combustion Residuals (CCR)" means fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by electric utilities and independent power producers.

(16) "Collector" means the person or persons as defined herein who, under agreements, verbal or written, with or without compensation does the work of collecting and/or transporting solid wastes, from industries, offices, retail outlets, businesses, institutions, and/or similar locations, or from residential dwellings, provided however, that this definition shall not include an individual collecting and/or transporting waste from his own single family dwelling unit.

(17) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

(18) "Composting" means the controlled biological decomposition of organic matter into a stable, odor free humus.

(19) "Construction/Demolition Waste" means waste building materials and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings and other structures. Such waste include, but are not limited to asbestos containing waste, wood, bricks, metal, concrete, wall board, paper, cardboard, inert waste landfill material, and other non-putrescible wastes which have a low potential for groundwater contamination.

(20) "Construction/Demolition Waste Landfill" means a landfill unit that accepts construction/demolition waste. A Construction/Demolition Waste unit also may receive inert waste and yard trimmings and may be publicly or privately owned.

(21) "Contaminant which is likely to pose a danger to human health" means any constituent in Appendix I, II, III, or IV or other site specific constituents as specified by the Division in the Groundwater Monitoring or Corrective Action Plan that is found at levels statistically confirmed above a groundwater protection standard.

(22) "Detected" means statistically significant evidence of contamination has been determined to exist by using methods specified in Rule 391-3-4-.14.

(23) "Dimension Stone Fines" means small stone particles usually resulting from sawing, grinding, or polishing dimension stone with abrasive grit and water or other mechanical method. The process producing the dimension stone fines must be water based and not include the use of oils or chemicals.

(24) "Dimension Stone Spalls" means Dimension Stone portions including slabs, blocks, and pieces removed from monolithic commercial dimension stone products during processing by cutting, breaking, or chipping. May also include dimension stone rejected during processing due to cracking, staining, or other defects. The process producing the dimension stone spalls must be water based and must not include the use of oils or chemicals.

(25) "Director" means the Director of Environmental Protection Division of the Department of Natural Resources.

(26) "Disposal Facility" means any facility or location where the final disposition of solid waste occurs and includes, but is not limited to, landfilling and solid waste thermal treatment technology facilities.

(27) "Division" means the Environmental Protection Division of the Department of Natural Resources.

(28) "Generator" means any person in Georgia or in any other state who creates solid waste.

(29) "Garbage" means food waste including waste accumulations of animal or vegetable matter used or intended for use as food, or that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetables.

(30) "Groundwater" means water below the land surface in a zone of saturation.

(31) "Hazardous Waste" means any solid waste which has been defined as hazardous waste in regulations promulgated by the Board of Natural Resources, Chapter 391-3-11.

(32) "High Moisture Content Waste" means sludge, non-hazardous solidified liquids and bulking agents and/or solidification/stabilization agents with moisture content greater than 40%. The moisture content of non-hazardous household waste is excluded from this definition.

(33) "Household waste" means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).

(34) "Host Local Government" means the host county or other local governmental jurisdiction within whose boundaries a municipal solid waste disposal facility is located.

(35) "Industrial Furnace" means a device as defined in Chapter 391-3-11, the Rules for Hazardous Waste Management.

(36) "Industrial Waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under the Hazardous Waste Management Act and regulations promulgated by the Board of Natural Resources, Chapter 391-3-11. Such waste includes, but is not limited to, wastes resulting from the following manufacturing processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; inorganic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil or gas waste.

(37) "Inert Waste Landfill" means a disposal facility accepting only wastes that will not or are not likely to cause production of leachate of environmental concern. Such wastes are limited to earth and earth-like products, concrete, cured asphalt, rock, bricks, yard trimmings, stumps, limbs, and leaves. This definition excludes industrial and demolition waste not specifically listed above.

(38) "Lateral expansion" means a horizontal expansion of the waste boundaries of an existing MSWLF unit or landfill unit.

(39) "Leachate" means a liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such wastes.

(40) "Landfill Unit" means an area of land of which or an excavation in which solid waste is placed for permanent disposal and which is not a land application unit, surface impoundment, injection well, or compost pile. Permanent disposal requires the placement of daily, intermediate, and/or final earth, synthetic, or a combination of earth and synthetic cover over the solid waste.

(41) "Leachate Collection System" means a system at a landfill for collection of the leachate which may percolate through the waste and into the soils surrounding the landfill.

(42) "Liner" means a continuous layer of natural or man-made materials beneath or on the sides of a disposal site or disposal site cell which restricts the downward or lateral escape of solid waste constituents, or leachate.

(43) "Liquid Waste" means any waste material that is determined to contain "free liquids" as defined by Method 9095 (Paint Filter Liquids Test), as described in "Test Methods for the Evaluation of Solid Wastes, Physical/Chemical Methods" (EPA Pub. No. SW-846).

(44) "Materials Recovery Facility" means a solid waste handling facility that provides for the extraction from solid waste of recoverable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.

(45) "Monofill" means a method of solid waste disposal that involves the landfilling of one waste type or wastes having very similar characteristics in a segregated trench or area which is physically separated from dissimilar or incompatible waste.

(46) "Mulch" means a product produced by grinding, shredding or chipping of yard trimmings, land-clearing debris, untreated and unpainted wood, or any combination thereof, that has not undergone controlled aerobic decomposition to produce a stabilized organic product.

(47) "Mulching" means the grinding, shredding or chipping of yard trimmings, land-clearing debris, untreated and unpainted wood, or any combination thereof, that has not undergone controlled aerobic decomposition to produce a stabilized organic product.

(48) "Municipal Solid Waste" means any solid waste derived from households, including garbage, trash, and sanitary waste in septic tanks and means solid waste from single-family and multifamily residences, hotels and motels, bunkhouses, campgrounds, picnic grounds, and day use recreation areas. The term includes yard trimmings, construction or demolition waste, and commercial solid waste, but does not include solid waste from mining, agricultural, or silvicultural operations or industrial processes or operations.

(49) "Municipal Solid Waste Landfill (MSWLF) Unit" means a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR Part 257.2. A MSWLF unit also may receive other types of solid waste, such as commercial solid waste, nonhazardous sludge, small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned.

(50) "Municipal Solid Waste Disposal Facility" means any facility or location where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including commercial or industrial solid waste, and includes, but is not limited to, municipal solid waste landfills and solid waste thermal treatment technology facilities.

(51) "Municipal Solid Waste Disposal Facility Operator" means the operator certified in accordance with Rule 391-3-4-.18 and stationed on the site who is in responsible charge of and has direct supervision of the daily field operations of a municipal solid waste disposal facility to ensure that the facility operates in compliance with the permit.

(52) "Municipal Solid Waste Landfill" means a disposal facility where any amount of municipal solid waste, whether or not mixed with or including commercial waste, industrial waste, nonhazardous sludges, or small quantity generator hazardous wastes, is disposed of by means of placing an approved cover thereon.

(53) "Open Burning" means the combustion of solid waste without:

(a) Control of combustion air to maintain adequate temperature for efficient combustion;

(b) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(c) Control of the emission of the combustion products.

(54) "Open Dump" means a disposal facility at which solid waste from one or more sources is left to decompose, burn or to otherwise create a threat to human health or the environment.

(55) "Operating Records" means written records including, but not limited to, permit applications, monitoring reports, inspection reports, and other demonstrations of compliance with this Chapter, which records are kept on file at the facility or at an alternative location as approved by the Division.

(56) "Operator" means the person(s) responsible for the overall operation of a facility or part of a facility.

(57) "Owner" means the person(s) who owns a facility or part of a facility.

(58) "Person" means the State of Georgia or any other state or any agency or institution thereof, and any municipality, county, political subdivision, public or private corporation, solid waste authority, special district empowered to engage in solid waste management activities, individual, partnership, association or other entity in Georgia or any other state. This term also includes any officer or governing or managing body of any municipality, political subdivision, solid waste authority, special district empowered to engage in solid waste activities, or public or private corporation in Georgia or any other state. This term also includes employees, departments, and agencies of the federal government.

(59) "Post-closure" means a procedure approved by the Division to provide for long-term financial assurance, monitoring and maintenance of a solid waste disposal facility to protect human health and the environment.

(60) "Private Industry Solid Waste Disposal Facility" means a disposal facility which is operated exclusively by and for a private solid waste generator for the purpose of accepting solid waste generated exclusively by said private solid waste generator.

(61) "Processing Operation" means any method, system or other treatment designed to change the physical form or chemical content of solid waste and includes all aspects of its management (administration, personnel, land, equipment, buildings and other elements).

(62) "Putrescible Wastes" means wastes that are capable of being quickly decomposed by microorganisms. Examples of putrescible wastes include but are not necessarily limited to kitchen wastes, animal manure, offal, hatchery and poultry processing plant wastes, dead animals, garbage and wastes which are contaminated by such wastes.

(63) "Qualified Groundwater Scientist" means a professional engineer or geologist registered to practice in Georgia who has received a baccalaureate or post-graduate degree in the natural sciences or engineering and has sufficient training and experience in groundwater hydrology and related fields that enable that individual to make sound professional judgments regarding groundwater monitoring, contaminant fate and transport, and corrective action.

(64) "Radioactive Waste" means waste which has been defined as radioactive waste in regulations promulgated by the Board of Natural Resources, Chapter 391-3-9.

(65) "Recovered Materials" means those materials which have known use, reuse, or recycling potential; can be feasibly used, reused or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing.

(66) "Recovered Materials Processing Facility" means a facility engaged solely in the storage, processing, recycling, and resale or reuse of recovered materials. Such facility shall not be considered a solid waste handling facility; provided, however, any solid waste generated by such facility shall be subject to all applicable laws and regulations relating to such solid waste.

(67) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials, intermediates, or products which can be used as a substitute for products not derived by such processes.

(68) "Regional Landfill or Regional Solid Waste Disposal Facility" means a facility owned by a county, municipality, or special district empowered to engage in solid waste management activities, or any combination thereof, which serves two or more any combination of counties, municipalities, or special solid waste districts.

(69) "Release" means the discharge, deposit, injection, dumping, spilling, emitting, releasing, leaking, or placing of any substance into or on any land or water of the state.

(70) "Relevant Point of Compliance" is a vertical surface located at the hydraulically downgradient limit of the waste management unit boundary that extends down into the uppermost aquifer underlying the facility. This point will be specified by the Director and shall be no more than 150 meters from the waste management unit boundary and shall be located on land owned by the owner of the landfill unit. The downgradient monitoring system must be installed at this point, and monitoring conducted to ensure that the concentration values listed in Table 1 of Rule 391-3-4-.07 will not be exceeded in the uppermost aquifer.

(71) "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

(72) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

(73) "Saturated Zone" means that part of the earth's crust in which all voids are filled with water.

(74) "Scavenge" means the unpermitted removal of solids waste from a solid waste handling facility.

(75) "Shredding" means the process by which solid waste is cut or torn into smaller pieces for final disposal or further processing.

(76) "Significant Groundwater Recharge Areas" means any area as designated on Hydrologic Atlas 18 Most Significant Ground-Water Recharge Areas of Georgia, 1989, as published by the Georgia Geologic Survey, Environmental Protection Division, Georgia Department of Natural Resources, unless an applicant for a solid waste handling permit or other interested party can demonstrate to the satisfaction of the Director that an area designated on Hydrologic Atlas 18 is or is not, in fact, a significant groundwater recharge area.

(77) "Site" means the entire property a permitted solid waste handling facility is located within and includes all activities within that property.

(78) "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

(79) "Solid Waste" means any garbage or refuse; sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities, but does not include recovered materials; post-use plastics and nonrecycled feedstock that are subsequently processed using a pyrolysis or gasification to fuels and chemicals process; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or by-product material as defined by the federal Atomic Energy Act of 1954, as amended (68 Stat. 923).

(80) "Solid Waste Handling" means the storage, collection, transportation, treatment, utilization, processing, or disposal of solid waste, or any combination of such activities but does not include recovered materials processing or pyrolysis or gasification to fuels and chemicals processes, or the holding of post-use plastics or nonrecycled feedstock at a pyrolysis facility or gasification to fuels and chemicals facility prior to processing at the facility where those materials are being held to ensure production is not interrupted.

(81) "Solid Waste Handling Facility" means any facility, the primary purpose of which is the storage, collection, transportation, treatment, utilization, processing, or disposal, or any combination thereof, of solid waste but does not include recovered materials processing facilities or pyrolysis or gasification to fuels and chemicals facilities.

(82) "Solid Waste Handling Permit" means written authorization granted to a person by the Director to engage in solid waste handling.

(83) "Solid Waste Management Act" or the "Act", wherever referred to in these Rules, means the Georgia Comprehensive Solid Waste Management Act, O.C.G.A. 12-8-20, *et seq*.

(84) "Solid Waste Thermal Treatment Technology" means any solid waste handling facility, the purpose of which is to reduce the amount of solid waste to be disposed of through a process of combustion, with or without the process of waste to energy.

(85) "Solidification" means the process of:

(a) mixing non-hazardous liquid wastes with bulking agents in order to produce a bulked waste with a low moisture content, or

(b) adding a solidification/stabilization (S/S) agent to bind the liquid waste into a solid form.

(86) "Solidification/stabilization (S/S) agents" means binders and/or supplemental additives that chemically react with the liquid waste, resulting in a solid material with structural integrity where the liquid waste is bound and cannot be separated from the solid material.

(87) "Tire" means a continuous solid or pneumatic rubber covering designed for encircling the wheel of a motor vehicle and which is neither attached to the motor vehicle nor a part of the motor vehicle as original equipment.

(88) "Transfer Station" means a facility used to transfer solid waste from one transportation vehicle to another for transportation to a disposal facility or processing operation.

(89) "Uppermost Aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the solid waste handling facility's property boundary.

(90) "Vertical Expansion" means the expansion of landfill beyond the approved maximum final elevations and within the approved waste management boundaries of the existing permit.

(91) "Waste Management Unit Boundary" means a vertical surface located at the hydraulically downgradient limit of the unit. This vertical surface extends down into the uppermost aquifer.

(92) "Waste-to Energy Facility" means a solid waste handling facility that provides for the extraction and utilization of energy from municipal solid waste through a process of combustion.

(93) "Yard Trimmings" means leaves, brush, grass, clippings, shrub and tree prunings, discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative matter resulting from landscaping development and maintenance other than mining, agricultural, and silvicultural operations.

Cite as Ga. Comp. R. & Regs. R. 391-3-4-.01

AUTHORITY: O.C.G.A. § 12-8-20 ***et seq*., as amended.**

HISTORY: Original Rule entitled "Definitions" was filed as 391-1-1-.01 on November 21, 1972; effective December 12, 1972, as specified by the Agency.

Amended: Rule renumbered as 391-3-4-.01. Filed September 6, 1973; effective September 26, 1973.

Amended: Rule repealed and a new Rule of same title adopted. Filed September 19, 1974; effective October 9, 1974.

Amended: F. Jun. 9, 1989; eff. Jun. 29, 1989.

Amended: F. Sept. 4, 1991; eff. Sept. 24, 1991.

Amended: F. Jun. 7, 1993; eff. Jun. 27, 1993.

Amended: F. Oct. 7, 1993; eff. Oct. 27, 1993.

Amended: F. Jun. 25, 2014; eff. July 15, 2014.

Amended: F. Nov. 2, 2016; eff. Nov. 22, 2016.

Amended: F. Mar. 8, 2018; eff. Mar. 28, 2018.

Amended: F. June 10, 2021; eff. June 30, 2021.

Amended: F. July 17, 2023; eff. Aug. 6, 2023.

391-3-4-.03 Public Participation

(1) Any city, county, group of counties, or authority beginning a process to select a site for a municipal solid waste disposal facility shall first call a public meeting as described herein.

(a) Notice such meeting shall be published at least once per week for two weeks immediately preceding the public meeting in a newspaper of general circulation serving such municipality or county.

(b) Where such proposed facility will serve a regional solid waste management authority established pursuant to O.C.G.A. 12-8-53, the notice procedure outlined in subparagraph (a) above shall be followed in each jurisdiction participating in such authority.

(c) The purpose of the public meeting shall be to discuss the waste management needs of the local government or region and to describe the siting process to be followed.

(2) The governing authority of any county or municipality taking action resulting in a municipal solid waste disposal facility siting decision shall notify the public as follows:

(a) Cause to be published in a newspaper of general circulation serving such city or county at least once per week for two weeks immediately preceding the date of such meeting, notice of the meeting at which the siting decision is to be made.

(b) Such notices shall state the time, place, and purpose of the meeting.

(c) The meeting shall be conducted by the governing authority taking the action.

(3) Upon submission of an application to the Division for any municipal solid waste disposal facility for which a permit (other than a permit-by-Rule) is required, the applicant, within fifteen (15) days of the submission of said application, shall take the following actions:

(a) Publish public notice of the application in a newspaper of general circulation serving the host county if the proposed facility or expanded facility is to serve no more than one county;

(b) Publish public notice of the application in a newspaper of general circulation serving each affected if the proposed facility or expanded facility is to serve more than one county;

(c) Provide written notice of the permit application to the governing body of each affected county in subparagraph (a) or (b) above; to the governing body of each local government within subparagraph (a) or (b) above; and to the regional development center;

(d) Request that the public notice outlined herein to be displayed prominently in the courthouse of each county notified in (c) above.

(e) Upon notification by the Division that a proposed facility is suitable for the intended purpose, the host local government shall initiate a local notification and negotiation process as required in O.C.G.A. 12-8-32.

(4) The governing authority of the county or municipality will hold a public hearing not less than two weeks prior to the issuance of any permit, except for a private industry disposal facility, and notice of such hearing shall be posted at the proposed site in a location closest to the primary existing entrance or primary proposed entrance where it can be viewed unaided from a public right-of-way and advertised in a newspaper of general circulation serving the county or counties in which the proposed activity will be conducted, at least thirty (30) days prior to such hearing. A typed copy of the hearing transcript shall be submitted to the Division.

(5) Whenever the Director issues, denies, revokes, suspends, or transfers, a permit or approves a major modification of a permit for a facility, he shall notify the chief elected official of the host local government in which the facility is located or is proposed to be located.

Cite as Ga. Comp. R. & Regs. R. 391-3-4-.03

AUTHORITY: O.C.G.A. § 12-8-20 ***et seq*****., as amended.**

HISTORY: Original Rule entitled "Solid Waste Plans" was filed as 391-1-1-.03 on November 21, 1972; effective December 12, 1972, as specified by the Agency.

Amended: Rule renumbered as 391-3-4-.03. Filed September 6, 1973; effective September 26, 1973.

Amended: Rule repealed and a new Rule entitled "Application for Permit" adopted. Filed September 19, 1974; effective October 9, 1974.

Amended: F. Jun. 9, 1989; eff. Jun. 29, 1989.

Repealed: New Rule entitled "Public Participation" adopted. F. Sept. 4, 1991.

Amended: F. Jun. 7, 1993; eff. Jun. 27, 1993.

Amended: F. Nov. 2, 2016; eff. Nov. 22, 2016.

Amended: F. Mar. 8, 2018; eff. Mar. 28, 2018.

Amended: F. June 10, 2021; eff. June 30, 2021.

Amended: F. July 17, 2023; eff. Aug. 6, 2023.

391-3-4-.04 General. Amended

(1) No person shall engage in solid waste handling in a manner which will be conducive to insect and rodent infestation or the harboring and feeding of wild dogs or other animals; impair the air quality; impair the quality of the ground or surface waters; impair the quality of the environment; or likely create other hazards to the public health, safety, or well-being as may be determined by the Director.

(2) Provisions of these Rules apply to all persons presently engaged in solid waste handling as well as all persons proposing to engage in solid waste handling.

(3) Exemptions: provisions of these Rules shall not apply to any individual disposing of solid wastes originating from his own residence onto land or facilities owned by him when disposal of such wastes does not thereby adversely affect the public health. These Rules shall not apply to any individual, corporation, partnership, or cooperative disposing of livestock feeding facility waste from facilities with a total capacity of up to 1,000 cattle or 5,000 swine. Provided that if such individual, corporation, partnership, or cooperative shall provide an approved waste disposal system which is capable of properly disposing of the run-off from a "ten year storm" such individual, corporation, partnership or cooperative shall be further exempt regardless of total per head capacity. Nothing in these Rules shall limit the right of any person to use poultry or other animal manure for fertilizer.

(4) Prohibited Acts:

(a) Burning: no solid waste may be burned at a solid waste handling facility, except by thermal treatment technology facility approved by the Division.

(b) Scavenging: no person owning or operating a solid waste handling facility shall cause, suffer, allow or permit scavenging at such site.

(c) Open Dump: no solid waste may be disposed of by any person in an open dump, nor may any person cause, suffer, allow or permit open dumping on his property.

(d) Asphalt Shingles: no roofing shingles which contain asphalt may be disposed of except in construction and demolition or municipal solid waste landfills.

(5) The owner or occupant of any premises, office, business establishment, institution, industry, or similar facilities shall be responsible for the collection and transportation of all solid waste accumulated at the premises, office, business establishment, institution, or similar facility to a solid waste handling facility operating in compliance with these Rules unless arrangements have been made for such service with a collector operating in compliance with these Rules.

(6) Prohibited Wastes Disposal:

(a) If, because of unusual physical or chemical properties, or geological or hydrogeological conditions, or for other reasons, the Division finds that solid waste should not be accepted at a solid waste handling facility, the Division may require that such waste be prohibited, and that a proposal for disposal of such waste, with supporting data as may be deemed necessary, be submitted by the generator of such waste for consideration of approval by the Division. The prohibition of such waste shall continue in effect until an acceptable procedure for processing or disposal has been developed and approved.

(b) The following solid wastes are specifically prohibited from disposal at solid waste disposal facilities in Georgia:

1. lead acid batteries;

2. liquid waste in landfills, except as allowed in (9) below;

3. regulated quantities of hazardous waste as defined in Rules promulgated by the Board of Natural Resources, Chapter 391-3-11;

4. radioactive waste as defined in Rules promulgated by the Board of Natural Resources, Chapter 391-3-9, Radioactive Waste Material Disposal; and

5. polychlorinated biphenyls (PCB) waste as defined in 40 CFR, Part 761.

(c) Any generator who disposes of a prohibited waste or person who accepts for disposal a prohibited waste shall be deemed to be in violation of these Rules.

(7) Recovered Materials:

(a) Recovered materials and recovered materials processing facilities are excluded from regulation as solid wastes and solid waste handling facilities. To be considered exempt from regulation, the material must have a known use, reuse, or recycling potential; must be feasibly used, reused, or recycled; and must have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing. Stockpiles of unprocessed yard trimmings, land-clearing debris, untreated and unpainted wood, or any combination thereof and mulch are considered recovered materials if the requirements for facilities with mulching operations as set forth in 391-3-4-.04(7)(g) are met.

(b) Materials accumulated speculatively are solid waste and must comply with all applicable provisions of these regulations.

(c) A recovered material is not accumulated speculatively if the person accumulating it can show that there is a known use, reuse, or recycling potential for the material, that the material can be feasibly sold, used, reused, or recycled and that during a rolling 12 month period seventy-five percent (75%), by weight or volume, of the recovered material stored at a facility is recycled, sold, used, or reused. Any material that is accumulated speculatively and not in accordance with these requirements must be handled as solid waste.

(d) Proof of recycling, sale, use, or reuse shall be provided in the form of bills of sale, or other records showing adequate proof of movement of the material in question to a recognized recycling facility or for proper use or reuse from the accumulation point. In addition, proof must be provided that there is a known market or disposition for the recovered material. Persons claiming that they are owners or operators of recovered materials processing facilities must show that they have the necessary equipment to do so.

(e) A recovered material is "sold" if the generator of the recovered material or the person who recovered the material from the solid waste stream received consideration or compensation for the material because of its inherent value.

(f) A recovered material is "used, reused or recycled" if it is either:

1. Employed as an ingredient (including use as an intermediate) in a process to make a product (for example, utilizing old newspaper to make new paper products) or

2. Employed in the same or different fashion as its original intended purpose without physically changing its composition (for example, use of old automobiles for spare parts or donation of clothing or furniture to charitable organizations) or

3. Employed in a particular function or application as an effective substitute for a commercial product (for example, utilizing shredded tires in asphalt or utilizing refuse-derived fuel as a substitute for fuel oil, natural gas, coal, or wood in a boiler or industrial furnace) as long as such substitution does not pose a threat to human health or the environment and so long as the facility is not a solid waste thermal treatment facility.

4. A material is not "used, reused or recycled" when it is applied to or placed on or in the land in a manner that constitutes disposal which, in the opinion of the Director, may pose a threat to human health and the environment (for example, utilizing soil containing levels of hazardous constituents, as listed in Chapter 391-3-11, 40 CFR Part 261, Appendix VIII for fill material when those levels are greater than the background levels in the area to be filled, land applying sludge in excess of generally accepted agricultural practices or use of inherently waste-like materials as fill material).

(g) Mulching is considered a recovered material operation at facilities demonstrating compliance with the following criteria:

1. A stockpile must have no greater than the following maximum dimensions:

(I) Area: 25,000 square feet

(II) Height: 25 feet

2. Unprocessed yard trimmings, land-clearing debris, untreated and unpainted wood or any combination thereof, must be processed no later than 90 days after receipt, unless otherwise stated in the Solid Waste Handling Permit.

3. Mulch is not accumulated speculatively if the person accumulating it can show that there is a known use, reuse, or recycling potential for the material; that the material can be feasibly sold, used, reused, or recycled; and that during a rolling 12 month period seventy-five percent (75%) by weight or volume of the products stored at a facility are recycled, sold, used, or reused. Any material that is accumulated speculatively and not in accordance with these requirements must be handled as solid waste.

4. The facility shall have on site a fire plan detailing steps to prevent, contain and extinguish a fire. The fire plan shall include documentation that the local fire authority or a Georgia State Certified Fire Inspector conducted a fire safety survey.

5. Activities involving open flames and other flammable materials (oil, gas, fuel) shall not be allowed within 25 feet of a stockpile, with the exception of maintenance activities involving torches and welding equipment, as long as a fireproof barrier is used.

6. The facility must provide a buffer between unprocessed yard trimmings, land-clearing debris, untreated and unpainted wood, mulch, and any combination thereof and the property line. The buffer shall be set by the local fire authority or a Georgia State Certified Fire Inspector and documented in the fire plan. If the local fire authority or a Georgia State Certified Fire Inspector does not establish a buffer, the minimum buffer shall be 50 feet. The buffer may include the fire lane.

7. The facility shall utilize best management practices from the most recent edition of the Georgia Stormwater Management Manual to minimize the exposure of material storage areas to rain, snow, snowmelt, and runoff.

8. The facility shall have erosion and sediment control measures adequate to prevent the escape of sediment from the facility property into Waters of the State. Construction and operating areas must utilize best management practices from the most recent edition of the Manual for Erosion and Sedimentation Control in Georgia.

9. Existing facilities producing mulch that have stockpiles of unprocessed yard trimmings, land clearing debris, untreated and unpainted wood, mulch, or any combination thereof on the effective date of this rule shall comply with the above sections (g) 1.- 8. within 6 months of the effective date of the rule.

(h) Dimension Stone Fines and Spalls Used as Recovered Material must comply with the following:

1. Section 391-3-4-.04(7)(a) through (f), and Section 391-3-4-.04(7)(h), of the Georgia Rules for Solid Waste Management.

2. Stone fines and spalls storage areas shall have erosion and sediment control measures adequate to prevent the escape of sediment from the facility property into Waters of the State and must utilize best management practices from the most recent edition of the Manual for Erosion and Sedimentation Control in Georgia.

3. Best management practices from the most recent edition of the Georgia Stormwater Management Manual must be applied to minimize and mitigate the exposure of Stone Fines and Spalls storage areas to rain, snow, snowmelt, and runoff.

4. Record-keeping: For dimension stone fines and spalls generated at a facility and used as recovered materials, the following must be documented and kept in the facility files for a period of no less than three (3) years:

a. Location and storage capacity of the recovered materials at the facility; and

b. Disposition of the recovered material including volume, date of sale or transfer, and final destination of the material.

5. All other federal, state, or local regulations based upon the end use, such as the Georgia Department of Agriculture regulations for consideration as a soil amendment for farming or agriculture or Georgia Department of Transportation and/or local highway/public works requirements for use as a road base course or top course.

6. Dimension stone fines and/or spalls used as a recovered material to reclaim a quarry or as backfill must comply with this section of the Rules and the most recent edition of the Guidance for Use of Clean Earthen and Rock Materials, Recovered Clean Concrete, and/or Cured Asphalt as Structural Fill Material.

(8) Asbestos Containing Waste.

(a) Collection.

1. Vehicles used for the transportation of containerized asbestos waste shall have an enclosed carrying compartment or utilize a covering sufficient to contain the transported waste, prevent damage to containers, and prevent release or spillage from the vehicle.

2. Vehicles used to reduce waste volume by compaction shall not be used.

3. Vacuum trucks used to transport waste slurry must be constructed and operated to ensure that liquids do not leak from the truck.

(b) Disposal.

1. Asbestos containing waste is to be disposed of only in a permitted landfill or other facility authorized by the Division for acceptance of asbestos containing waste.

2. Asbestos containing waste shall be sealed in leak-proof containers labeled with "Caution - Contains Asbestos Fibers - Avoid Opening or Breaking Container - Breathing Asbestos is Hazardous to Your Health."

3. Asbestos containing waste shall be disposed of in such a manner as not to destroy the integrity of the asbestos containing materials containers prior to the placement of cover material. This waste shall be completely covered immediately after deposition with a minimum of six (6) inches of non-asbestos material.

(9) Liquid Waste Restrictions at Landfills.

(a) Bulk or noncontainerized liquid waste may not be placed in landfill units unless:

1. The waste is household waste other than septic waste; or

2. The waste is leachate or gas condensate derived from the landfill unit, whether it is a new or existing landfill or lateral expansion, is designed with a composite liner and leachate collection system as described in paragraph (1)(d) of Rule 391-3-4-.07. The owner or operator must place the demonstration in the operating record and notify the Director that it has been placed in the operating record.

(b) Containers holding liquid waste may not be placed in a landfill unit unless:

1. The container is a small container similar in size to that normally found in household waste;

2. The container is designed to hold liquids for use other than storage; or

3. The waste is household waste.

(c) For purposes of this section:

1. "Liquid waste" means any waste material that is determined to contain "free liquids" as defined by Method 9095 (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Pub. No. SW-846).

2. "Gas condensate" means the liquid generated as a result of gas recovery process(es) at the landfill unit.

(10) Variances, waivers, and alternative compliance schedules which may be granted under these Rules, Chapter 391-3-4, may not allow for the waiver or modification of a requirement found in 40 CFR, Part 258, as amended, 56 Fed. Reg. 51016-51039 (October 9, 1991), 80 Fed. Reg. 21468 (April 17, 2015); as amended at 80 Fed. Reg. 37991 (July 2, 2015) and 81 Fed. Reg. 51807 (August 5, 2016), except as provided in 391-3-4-.10(11).

(11) Compliance with the Rules for Solid Waste Management, Chapter 391-3-4, does not relieve any person from complying with all other applicable local, state, or federal rules or statutes.

Cite as Ga. Comp. R. & Regs. R. 391-3-4-.04

AUTHORITY: O.C.G.A. § 12-8-20 ***et seq*., as amended.**

HISTORY: Original Rule entitled "Collection and Transportation," was filed as 391-1-1-.04 on November 21, 1972; effective December 12, 1972, as specified by the Agency.

Amended: Rule renumbered as 391-3-4-.04. Filed September 6, 1973; effective September 26, 1973.

Amended: Rule repealed and a new Rule entitled "General" adopted. Filed September 19, 1974; effective October 9, 1974.

Amended: F. Jun. 9, 1989; eff. Jun. 29, 1989.

Amended: F. Sept. 4, 1991; eff. Sept. 24, 1991.

Amended: F. Jun. 7, 1993; eff. Jun. 27, 1993.

Amended: F. Jul. 31, 1997; eff. Aug. 20, 1997.

Amended: F. Sep. 13, 2016; eff. Oct. 3, 2016.

Amended: F. Mar. 8, 2018; eff. Mar. 28, 2018.

Amended: F. June 10, 2021; eff. June 30, 2021.

Amended: F. July 17, 2023; eff. Aug. 6, 2023.

391-3-4-.06 Permit by Rule for Collection, Transportation, Processing, and Disposal

(1) Permit-by-Rule. Notwithstanding any other provision of these Rules, collection operations, transfer station operations, inert waste landfill operations, waste processing and thermal treatment operations, wastewater treatment and pretreatment plant sludge disposal operations, and yard trimmings waste landfill operations shall be deemed to have a solid waste handling permit if the conditions in paragraph (2) are met and the conditions in paragraph (3), for that particular category of operation are met.

(2) Notification. Within 30 days of commencing solid waste handling activities which are covered under a permit-by-Rule, notification must be made to the Director of such activity. Notification shall be made on such forms as are provided by the Director. Persons failing to notify the Director of such activities shall be deemed to be operating without a permit.

(3) Categories of Operations:

(a) Collection Operations:

1. Vehicle construction: vehicles or containers used for the collection and transportation of garbage and similar putrescible wastes, or mixtures containing such wastes, shall be covered, substantially leakproof, durable, and of easily cleanable construction.

2. Vehicle maintenance: solid waste collection and transportation vehicles shall be cleaned frequently and shall be maintained in good repair.

3. Littering and spillage: vehicles or containers used for the collection and transportation of solid waste shall be loaded and moved in such manner that the contents will not fall, leak or spill therefrom and shall be covered when necessary to prevent blowing of material from the vehicle.

4. No regulated quantities of hazardous wastes may be collected and transported except in accordance with the provisions of the Georgia Hazardous Waste Management Act, O.C.G.A. 12-8-60 *et seq*.

5. Local ordinances: it is the responsibility of the collector to comply with all local rules, regulations, and ordinances pertaining to operation of solid waste collection systems.

6. All wastewater from cleaning of vehicles must be handled in a manner which meets all applicable environmental laws and regulations.

7. All collected solid waste must be deposited only in a permitted solid waste handling facility authorized to receive the applicable waste types.

(b) Transfer Station operations:

1. Solid Waste shall be confined to the interior of transfer station buildings, and not allowed to scatter to the outside. Waste shall not be allowed to accumulate, and floors shall be kept clean and well drained.

2. Sewage solids shall be excluded from transfer stations.

3. Dust, odors and similar conditions resulting from transfer operations shall be controlled at all times.

4. Rodents, insects and other such pests shall be controlled.

5. Any contaminated runoff from washwater shall be discharged to a wastewater treatment system and, before final release, shall be treated in a manner approved by the Division.

6. Hazardous Waste: no person owning or operating a transfer station shall cause, suffer, allow, or permit the handling of regulated quantities of hazardous waste.

7. Liquid wastes restricted from landfill disposal by Rule 391-3-4-.04(9) shall be excluded from transfer stations. Transfer stations in existence on August 1, 2004, and in compliance with all other regulations applicable to permit by rule transfer stations, may continue to handle such liquid wastes until a solid waste processing facility permit is issued or August 1, 2006, whichever occurs first.

(c) Inert Waste Landfill Operations: Inert Waste Landfills in existence on the effective date of this Rule and in compliance with all other regulations applicable to permit by rule for inert waste landfill operations may continue to operate under the conditions below until a solid waste handling permit is issued or December 1, 2014, whichever occurs first. Provided a complete permit application is submitted by June 1, 2014, the Director may extend the deadline for permitting until a final decision on permit issuance or denial is made. If the requirements for a permit cannot be met by December 1, 2014, or other deadline established by the Director, the operator must cease receipt of

waste on that date and complete closure by June 1, 2015, or six months from the Director's denial of the requested permit application. Any inert waste landfill which, as of January 1, 2014, has been certified by a professional engineer registered in accordance with Chapter 15 of Title 43 as being in full compliance with all permit by rule requirements established in the rules and regulations of the division as they existed on January 1, 2012, may continue to operate under such permit by rule requirements. Except as provided in sub-paragraph (f), no person may begin operating a new inert waste landfill after the effective date of this rule without first obtaining a site specific solid waste handling permit for an inert waste landfill.

1. Only waste that will not or is not likely to produce leachate of environmental concern may be disposed of in an inert waste landfill. Only earth and earth-like products, concrete, cured asphalt, rock, bricks, yard trimmings, and land clearing debris such as stumps, limbs and leaves, are acceptable for disposal in an inert waste landfill.

2. No portion of waste disposal area shall be located within one hundred (100) linear feet of any property line or enclosed structure.

3. Materials placed in inert waste landfills shall be spread in layers and compacted to the least practical volume, and a uniform compacted layer of clean earth cover no less than one (1) foot in depth shall be placed over all exposed inert waste material at least monthly.

4. The inert waste landfill site shall be graded and drained to minimize runoff onto the landfill surface, to prevent erosion and to drain water from the surface of the landfill.

5. Access to inert waste landfills shall be limited to authorized entrances which shall be closed when the site is not in operation.

6. Suitable means shall be provided to prevent and control fires. Stockpiled soil is considered to be the most satisfactory fire fighting material.

7. A uniform compacted layer of final cover not less than two (2) feet in depth and a vegetative cover shall be placed over the final lift not later than one month following final placement of inert waste within that lift.

8. Notice of final closure must be provided to the Director within 30 days of receiving the final load of waste. Any site not receiving waste for in excess of 180 days shall be deemed abandoned and in violation of these Rules unless properly closed. Notice of closure must include the date of final waste receipt and an accurate legal description of the boundaries of the landfill.

9. All deeds for real property which have been used for landfilling shall include notice of the landfill operations, the date the landfill operation commenced and terminated, an accurate legal description of the actual location of the landfill, and a description of the type of solid wastes which have been deposited in the landfill. Concurrent with the submission of notice of final closure to the Director, the owner or operator must submit to the Director confirmation that the information required in this section has been noticed on the property deed.

10. All wastes received at the landfill must be measured and reported as required by Rule 391-3-4-.17.

11. All other applicable federal, state, and local laws, rules, and ordinances, including erosion and sediment control, and any applicable federal wetlands permits, must be fully complied with prior to commencement of landfilling operations.

(d) On-site Waste Processing and Thermal Treatment Operations:

1. For purposes of this Rule, "On-site Processing or Thermal Treatment Facility" shall mean a facility that processes or thermally treats, no less than 75 percent, by weight, solid waste generated at the permit-by-Rule facility location or facilities owned by the same person who owns the property containing the permit-by-Rule facility. On-site facilities may include fixed or mobile facilities either owned or under contract with the solid waste generator of 75 percent of the solid waste so long as the solid waste generator maintains legal control of the solid waste while at the permit-by-Rule facility.

2. Capacity: the on-site waste processing and thermal treatment technology facility shall be adequate in size and capacity to manage the projected volume of solid waste and residue generated.

3. Residue: on-site thermal treatment technology facilities shall be designed in such a manner to expedite the routine sampling of bottom and fly ash. Temperature and combustion time shall be sufficient to produce a satisfactory residue, essentially free of odors and unstable organic matter, and such residue shall be promptly deposited in a municipal solid waste landfill having a liner and leachate collection system and operated and maintained as provided herein, handled in such other manner as may be approved by the Division, or if shown by testing to be hazardous, handled in accordance with the provisions of the Georgia Hazardous Waste Management Act, O.C.G.A. 12-8-60, *et seq*. Residue from thermal treatment technology facilities that burn only biomedical wastes may be deposited in any permitted municipal solid waste landfill. Residue from the burning of any wastes, other than biomedical wastes, must, if landfilled, be placed in landfills having liners and leachate collection systems unless the Division grants an exemption.

4. Storage: the areas for storing wastes prior to processing must be clearly defined and the maximum capacity specified. No waste may be stored in excess of the designated capacity.

5. Disposal of waste: treated waste from on-site processing facilities and any material not sold or used, reused, or recycled must be disposed in a permitted disposal facility.

6. Air quality: on-site processing and thermal treatment technology facilities shall be designed and operated in such manner as to meet any air quality standards of the Division.

7. Wastewater: on-site processing and thermal treatment technology facilities shall be designed so that any wastewater generated will be discharged to a wastewater treatment system and, before final release, will be treated in a manner approved by the Division.

8. Fire protection: on-site processing and thermal treatment technology facility designs shall provide for fire control equipment placed near the storage and charging area, and elsewhere as needed.

9. Supervision: operation and management of on-site thermal treatment technology facilities shall be under the direct supervision and control of an operator who is present at all times of operation and is qualified in thermal treatment technology management by training, education or experience. Operation and management of on-site processing facilities shall be under the supervision and control of a responsible individual properly trained in the operation of such facilities at all times during operation.

10. Prohibited waste: no lead acid batteries, radioactive waste, or regulated quantities of hazardous waste or polychlorinated biphenyls may be accepted. The operator must have a plan for excluding these wastes.

11. Cleanliness and sanitation: on-site processing and thermal treatment technology facilities shall be maintained in a clean and sanitary condition. Solid waste shall be confined to the designated storage area.

12. Record keeping: accurate written, daily records by actual weight or by the methods approved in accordance with O.C.G.A. 12-8-31.1(g) shall be kept of all waste processed or disposed at the on-site processing and thermal treatment technology facility. Such records shall include the source of the waste, by facility name and location. Copies of such records shall be maintained for a period of at least three (3) years and shall be submitted to the Division quarterly on such forms as prescribed by the Division.

13. Local ordinances: it is the responsibility of the operator of on-site processing and thermal treatment technology facilities to comply with all local rules, regulations, and ordinances pertaining to operation of these facilities and all other applicable federal and state laws and rules.

14. All facilities handling biomedical waste must, in addition to this Rule, meet any requirements of Rule 391-3-4-.15.

(e) Wastewater Treatment or Pretreatment Plant Sludge Disposal:

1. All wastewater treatment or pretreatment plant sludges that are not beneficially used, reused, or recycled in accordance with Rule 391-3-4-.04 or that are not disposed of by landfilling in accordance with Rule 391-3-4-.07, must be handled in accordance with an approval or a permit issued by the Division under authority of the Georgia Water Quality Control Act, O.C.G.A. 12-5-20, *et seq*. or the Georgia Air Quality Act, O.C.G.A. 12-9-1 *et seq*.

(f) Yard Trimmings Waste Landfill Operations: Landfill Operations with 5 acres or less of waste disposal area and located in counties with a population less than 65,000 people and accepting exclusively yard trimmings as defined by these Rules can be permitted under the following conditions:

1. Only yard trimmings are acceptable for disposal in a yard trimmings waste landfill. Vegetative matter from land clearing operations shall not be disposed in a yard trimmings waste landfill.

2. No portion of the waste disposal area shall be located within two hundred (200) linear feet of any property line or enclosed structure.

3. Materials placed in yard trimmings waste landfills shall be spread in layers and compacted to the least practical volume, and a uniform compacted layer of clean earth cover no less than one (1) foot in depth shall be placed over all exposed yard trimmings waste material at least monthly.

4. The yard trimmings waste landfill site shall be graded and drained to minimize runoff onto the landfill surface, to prevent erosion and to drain water from the surface of the landfill.

5. Access to yard trimmings waste landfills shall be limited to authorized entrances which shall be closed when the site is not in operation.

6. Suitable means shall be provided to prevent and control fires. Stockpiled soil is considered to be the most satisfactory firefighting material.

7. A uniform compacted layer of final cover not less than two (2) feet in depth and a vegetative cover shall be placed over the final lift not later than one month following final placement of yard trimmings waste within that lift.

8. Notice of final closure must be provided to the Director within 30 days of receiving the final load of waste. Any site not receiving waste for in excess of 180 days shall be deemed abandoned and in violation of these Rules unless properly closed. Notice of closure must include the date of final waste receipt and an accurate legal description of the boundaries of the landfill.

9. All deeds for real property which have been used for landfilling shall include notice of the landfill operations, the date the landfill operation commenced and terminated, an accurate legal description of the actual location of the landfill, and a description of the type of solid wastes which have been deposited in the landfill. Concurrent with the submission of notice of final closure to the Director, the owner or operator must submit to the Director confirmation that the information required in this section has been noticed on the property deed.

10. All wastes received at the landfill must be measured and reported as required by Rule 391-3-4-.17.

11. All other applicable federal, state, and local laws, rules, and ordinances, including erosion and sediment control, and any applicable federal wetlands permits, must be fully complied with prior to commencement of landfilling operations.

(g) Dimension Stone Processing Operations Producing Fines and Spalls: Dimension stone processing operations producing fines and spalls, or other similar stone spoils must comply with either section 1. or 2. below:

1. Dimension stone fines and spalls used as recovered material must comply with Section 391-3-4-.04(7)(h) of the Georgia Rules for Solid Waste Management and are not required to submit a Permit by Rule Notification Form.

2. Stone fines and/or spalls that are not used in a manner consistent with 391-3-4-.06(3)(g)1. are subject to the following requirements:

a. Stone fines and/or spalls may be placed in designated stockpiles or storage areas that only contain clean dimension stone or rock fines and spalls. These stockpile areas may be on-site at a facility or at an off-site facility specifically designated for the final storage of these materials.

b. Stockpile/storage area(s) shall be not located within fifty (50) linear feet of any property line, surface waters, or Waters of the State unless the stockpile/storage area(s):

(i) Consists of a de minimis amount of material stored within a property owned or leased by the generator that is one acre or less and the stockpiled material does not result in sediments leaving the property onto neighboring properties, local sewer systems, or directly to Waters of the State; or

(ii) Existed prior to the effective date of this rule and meets the following requirements:

(I) Existing stone fines and/or spalls stockpile areas shall be shown on a site map as indicated on the Permit by Rule Notification form; and

(II) After the effective date of this rule, new materials may not be stored on an existing stockpile area unless the new material is placed at least fifty (50) linear feet or more away from the property line, surface waters, or Waters of the State.

c. Erosion and sediment control measures adequate to prevent the escape of sediment from the site into Waters of the State utilizing best management practices from the most recent edition of the Manual for Erosion and Sedimentation Control in Georgia must be implemented.

d. Record-Keeping:

(i) Facilities generating stone fines and spalls must document and keep the following information in the facility files for a period of no less than three (3) years:

(I) Location and storage capacity of the fines and spalls at the facility, and

(II) Final disposition of the fines and spalls including volume, date of transfer, and final destination of the material.

(ii) From the effective date of this Rule, the owner/operator of a dimension stone fines and spalls stockpile/storage site shall keep the following information in the facility files for a period of no less than three (3) years:

(I) the generator or point of origin and date of receipt of the stone fines and spalls;

(II) the volume or weight received; and

(III) the storage location of the materials.

e. All deeds for real property which have been used for stockpiling stone fines and spalls shall include notice of the stockpiling operations, the date the operation commenced and terminated, an accurate legal description of the actual location of the stockpile or storage areas, and a description of the type of materials stockpiled on site. This notice shall be placed in the deed no later than 30 days after the stockpile or storage area has received its last load of stone fines and/or spalls. The owner or operator must submit to the Director a confirmation that the information required in this section has been noticed on the property deed.

f. All other applicable federal, state, and local laws, rules, and ordinances, including erosion and sediment control, and any applicable federal wetlands permits, must be fully complied with prior to commencement of stockpiling/storage operations.

Cite as Ga. Comp. R. & Regs. R. 391-3-4-.06

AUTHORITY: O.C.G.A. § 12-8-20 ***et seq*., as amended.**

HISTORY: Original Rule entitled "Enforcement" adopted. F. Sept. 6, 1973; eff. Sept. 26, 1973.

Repealed: New Rule entitled "Collection and Transportation" adopted. F. Sept. 19, 1974; eff. Oct. 9, 1974.

Repealed: New Rule entitled "Permit by Rule for Collection, Transportation, and Disposal" adopted. F. June 9, 1989; eff. June 29, 1989.

Amended: F. Sept. 4, 1991; eff. Sept. 24, 1991.

Amended: F. June 7, 1993; eff. June 27, 1993.

Amended: F. July 31, 1997; eff. August 20, 1997.

Amended: F. July 8, 2005; eff. July 28, 2005.

Amended: F. Feb. 5, 2013; eff. Feb. 25, 2013.

Amended: F. Jan. 8, 2014; eff. Jan. 28, 2014.

Amended: F. Sep. 13, 2016; eff. Oct. 3, 2016.

Amended: F. Mar. 8, 2018; eff. Mar. 28, 2018.

Amended: F. June 10, 2021; eff. June 30, 2021.

Amended: F. July 17, 2023; eff. Aug. 6, 2023.

391-3-4-.08 Solid Waste Thermal Treatment Operations

(1) Except as otherwise noted in (2) below, any person engaged in thermal treatment technology of solid waste, in addition to the requirements of O.C.G.A. 12-8-24(i) relating to Federal New Source Performance Standards, shall comply with the following requirements:

(a) Design Criteria: a design and operational plan prepared as a part of the permit application must be prepared by a professional engineer registered in Georgia and must include, but is not limited to, the following criteria:

1. Capacity: the thermal treatment technology facility shall be adequate in size and capacity to manage the projected incoming solid waste and residue volumes.

2. Storage Time: the facility shall provide for a minimum storage capacity of not less than three (3) times the daily capacity of the thermal treatment technology equipment. No waste shall be stored in excess of the permitted capacity.

3. Types of Waste: the application must include the sources, types and weight or volumes of solid waste to be processed, including data on the moisture content of the waste, and information concerning special environmental pollution or handling problems that may be created by the solid waste.

4. Residue Analysis: the facility shall be designed in such a manner as to provide for such devices to expedite the routine sampling of bottom and fly ash.

5. Air Quality: the facility shall be designed in such manner as to meet any air quality standards of the Division.

6. Wastewater: the facility shall be designed so that any wastewater generated will be discharged to a wastewater system and, before final release, will be treated in a manner approved by the Division.

7. Fire Protection: facility design shall provide for fire control equipment placed near the storage and charging area, and elsewhere as needed, and additional fire fighting equipment shall be made available for emergencies.

8. Residue Acceptability: the facility shall provide for sufficient temperature and combustion times to produce a residue essentially free of odors and unstable organic matter.

(b) Construction Certification: upon receipt of a final and effective solid waste handling permit, construction may commence in accordance with the approved design and operational plan and permit conditions. Prior to the receipt of solid waste, the Division must be provided with written certification, by a professional engineer licensed to practice in Georgia, that the facility has been constructed in accordance with the approved permit. Unless notified otherwise by the Division within 15 days of receipt by the Division of the written certification, the facility owner or operator may commence disposal of solid waste.

(c) All persons owning or operating thermal treatment technology facilities shall comply with the following performance requirements:

1. Supervision: operation and management of thermal treatment technology facilities shall be under the direct supervision and control of an operator who is present at all times of operation and is qualified in thermal treatment technology management by training, education or experience and who, after July 1, 1992, is certified in accordance with O.C.G.A. 12-8-24.1 and these Rules.

2. Residue: temperature and combustion time shall be sufficient to produce a satisfactory residue, essentially free of odors and unstable organic matter, and such residue shall be promptly deposited in a municipal solid waste landfill having a liner and leachate collection system and operated and maintained as provided herein, handled in such other manner as may be approved by the Division, or if shown by testing to be hazardous, handled in accordance with the provisions of the Georgia Hazardous Waste Management Act, O.C.G.A. 12-8-60, et seq.

3. Waste Water: waste water shall be discharged into a waste water treatment system and, before final release, shall be treated in a manner approved by the Division.

4. Information Posted: signs shall be posted at the entrance to the plant indicating the days and hours of operation. Access to the plant shall be limited to those times when authorized personnel are on duty.

5. Cleanliness and Sanitation: plants shall be maintained in a clean and sanitary condition. Solid waste shall be confined to the unloading area, which shall be maintained free of dust and nuisances. Accumulations of putrescible materials and rubbish shall be controlled in a manner so as to minimize odors and prevent infestation by insects or rodents, and insect and rodent control measures shall be applied as needed. Sanitary facilities shall be provided for employees and shall be kept clean and good repair.

6. Fire Control: fire control equipment shall be available near the storage area and charging area, and elsewhere as needed, and additional fire fighting equipment shall be made available for emergencies.

7. Sampling requirements: sampling of ash residues must be conducted at frequencies and in such a manner as prescribed below:

(i) Prior to the initial disposal of ash or residue from a facility.

(ii) At a minimum, monthly for the first six (6) months of operations at the facility, and annually during the remaining life of the facility.

(iii) A sampling and analysis plan shall be submitted to, and approved by, the Director.

(iv) Fly ash and bottom ash shall be sampled and analyzed separately.

8. Prohibited Waste: no lead acid batteries, radioactive waste, or regulated quantities of hazardous waste may be accepted. The operator must have a plan for excluding these wastes.

9. Record Keeping: accurate written, daily records by actual weight or by the methods approved in accordance with O.C.G.A. 12-8-31.1(g) shall be kept of all waste received at the thermal treatment facility. Copies of such records shall be maintained for a period of at least three (3) years and shall be made available to the Division upon request.

10. Additional Stipulations: notwithstanding the above, additional stipulations for owning or operating a thermal treatment facility may be imposed by the Director as deemed necessary to carry out the purposes of O.C.G.A. 12-8-20, et seq.

(2) Any person engaged in the operation of an Air Curtain Destructor (ACD) shall comply with the following requirements: for purposes of these Rules, an "Air Curtain Destructor" means a forced air pit thermal treatment technology for the burning of wood wastes.

(a) Design Criteria: a design and operational plan prepared as a part of the permit application must be prepared by a professional engineer registered in Georgia and must include, but is not limited to, the following criteria:

1. Location: the ACD must be at least 500 feet from any occupied dwelling. The distance may increased or decreased on a site-specific basis at the discretion of the Division.

2. Storage: areas for storing wastes prior to treatment must be clearly defined and maximum capacity specified.

3. Types of Wastes: only wood wastes consisting of trees, logs, brush, stumps relatively free of soil, and natural wood products free of wood preserving chemicals, paints, and other contaminants may be burned. Fallen leaves, sawdust, other densely packed wood wastes, and paper (any type) may not be burned.

4. Air Quality: the facility shall be designed in such a manner as to meet applicable air quality standards of the Division. No smoke emissions exceeding 20 percent opacity may be produced during operation except for a specified ignition period.

5. Disposal of Ash and Residue: ash and residue shall be removed from the facility, handled as a recovered material or and disposed in a permitted facility.

6. Fire Protection: facility design shall provide for fire control equipment placed near the storage and ACD area. Additional fire fighting equipment shall be made available for emergencies.

(b) Construction Certification: upon receipt of a final and effective solid waste handling permit, construction may commence in accordance with the approved design and operational plan and permit conditions. Prior to the receipt of solid waste, the Division must be provided with written certification, by a professional engineer licensed to practice in Georgia, that the facility has been constructed in accordance with the approved permit. Unless notified otherwise by the Division within 15 days of receipt by the Division of the written certification, the facility owner or operator may commence disposal of solid waste.

(c) All persons owning or operating an air curtain destructor shall comply with the following performance requirements:

1. Supervision: operation and management of air curtain destructors shall be under the direct supervision and control of an operator who is present at all times of operation and is qualified in air curtain distracter management by training, education or experience and who, after July 1, 1992, is certified in accordance with O.C.G.A. 12-8-24.1 and these Rules.

2. Residue: temperature and combustion time shall be sufficient to produce a satisfactory residue, and such residue shall be promptly deposited in a landfill operated and maintained as provided herein or handled in such other

manner as may be allowed by these Rules. Ashes may not be allowed to build up on the combustion pit to higher than one-third the pit depth to the point where combustion is impeded, whichever comes first.

3. Access: facility access shall be restricted to prohibit unauthorized storage or disposal of wastes and to prevent injury during ACD operation.

4. Inspection and Maintenance: the ACD and all operating appurtenances must be routinely inspected and adequately maintained to ensure proper working order. Storage areas must be inspected and maintained to exclude unauthorized wastes and minimize any fire hazard.

(d) No ACD may burn any household waste or yard trimmings.

Cite as Ga. Comp. R. & Regs. R. 391-3-4-.08

AUTHORITY: Ga. L. 1972, p. 1002, as amended; O.C.G.A. §§ 12-8-20**, et seq., 12-8-23.**

HISTORY: Original Rule was filed on September 19, 1974; effective October 9, 1974.

Amended: Rule retitled "Incineration and Pyrolysis Operations." F. Jun. 9, 1989; eff. Jun. 29, 1989.

Amended: Rule retitled "Solid Waste Thermal Treatment Operations." F. Sept. 4, 1991; eff. Sept. 24, 1991.

Amended: F. Jun. 7, 1993; eff. Jun. 27, 1993.

Amended: F. Oct. 7, 1993; eff. Oct. 27, 1993.

Amended: F. Mar. 8, 2018; eff. Mar. 28, 2018.

Amended: F. July 17, 2023; eff. Aug. 6, 2023.

Department 410. RULES OF GEORGIA BOARD OF NURSING

Chapter 410-2. LICENSURE BY EXAMINATION

410-2-.01 Graduates of Approved Nursing Education Programs (RN)

(1) The Board-recognized licensing examination is the National Council Licensure Examination for Registered Nurses (NCLEX-RN), for which a passing result must be achieved.

(2) An applicant must pass the licensing examination within a three year period from the date of graduation.

(3) An applicant whose period of eligibility has expired must reestablish eligibility as a duly qualified applicant by enrolling in and graduating from an approved nursing education program as defined in O.C.G.A. § 43-26-3(1.2).

(4) Applicants for licensure by examination who have graduated from a Board approved program as defined in O.C.G.A. § 43-26-3(1.2) must submit the following:

(a) A complete application containing data required by the board attesting that all information contained in, or referenced by, the application is complete and accurate and is not false or misleading;

(b) The required application processing fee which is not refundable;

(c) Completed registration as required by the Board to cause the submission of a criminal background check as required by O.C.G.A. § 43-26-7(b)(4);

(d) Official transcripts documenting graduation from an approved nursing education program;

(e) Secure and verifiable documentation of United States citizenship or lawful presence in the United States as required by Georgia law; and

(f) Any additional information requested by the board needed to establish eligibility.

(5) Requirements for licensure must be complete within the timeframe indicated in the Joint Secretary rules and policies to avoid administrative withdrawal of the application. Any consideration of licensure after that date will require the applicant to submit a new application, new documents, and the appropriate fee. The testing requirement is exempt from this timeframe.

(6) An applicant who passes the licensing examination and is under investigation for possible violation of the Nurse Practice Act may not be issued a license until the matter is resolved to the satisfaction of the Board. The license may be denied or sanctioned despite the applicant meeting all other criteria for licensure.

Cite as Ga. Comp. R. & Regs. R. 410-2-.01

AUTHORITY: O.C.G.A. §§ 43-1-25**,** 43-26-2**,** 43-26-3**,** 43-26-5**,** 43-26-7**.**

HISTORY: Original Rule was filed and effective on June 30, 1965.

Amended: Filed November 15, 1966; effective December 4, 1966.

Amended: Original Rule entitled "Objectives" repealed and new Rule entitled "Meetings" adopted. Filed March 18, 1976; effective April 7, 1976.

Amended: Rule repealed and a new Rule entitled "Meetings, Officers, and Duties" adopted. Filed December 18, 1986; effective January 7, 1987.

Amended: Filed February 6, 1987; effective February 26, 1987.

Repealed: Authority repealed, new authority adopted. F. May 8, 1990; eff. May 28, 1990.

Repealed: New Rule of same title adopted. F. Aug. 23, 1990; eff. Sept. 12, 1990.

Repealed: New Rule entitled "Graduates of Approved Nursing Education Programs (RN)" adopted. F. Aug. 24, 2015; eff. Sept. 13, 2015.

Amended: F. July 27, 2023; eff. Aug. 16, 2023.

410-2-.02 Graduates of Nontraditional Nursing Education Programs (RN)

(1) The Board-recognized licensing examination is the National Council Licensure Examination for Registered Nurses (NCLEX-RN), for which a passing result must be achieved.

(2) An applicant must pass the licensing examination within a three year period from the date of graduation.

(3) An applicant whose period of eligibility has expired must reestablish eligibility as a duly qualified applicant by enrolling in and graduating from an approved nursing education program as defined in O.C.G.A. § 43-26-3(1.2).

(4) Applicants for licensure by examination who have graduated from a nontraditional nursing education program as defined in O.C.G.A. § 43-26-7(e) must submit the following:

(a) A complete application containing data required by the board attesting that all information contained in, or referenced by, the application is complete and accurate and is not false or misleading;

(b) The required application processing fee which is not refundable;

(c) Completed registration as required by the Board to cause the submission of a criminal background check as required by O.C.G.A. § 43-26-7(b)(4);

(d) Official transcripts documenting graduation from a nontraditional nursing education program;

(e) Secure and verifiable documentation of United States citizenship or lawful presence in the United States as required by Georgia law; and

(f) Any additional information requested by the board needed to establish eligibility.

(5) Applicants who do not meet the requirements of O.C.G.A. § 43-26-7(b)(2)(B)(ii)(I) must complete a Board approved, post graduate preceptorship as provided in O.C.G.A. § 43-26-7(b)(2)(B)(ii)(II) through (V).

(6) At the discretion of the Board, a temporary permit may be issued to an applicant for the purpose of practicing nursing as a part of a Board approved preceptorship as provided in O.C.G.A. § 43-26-7. The temporary permit shall be effective for a period of six months from the date of issuance and may be renewed only one time for an additional six month period.

(7) Requirements for licensure must be complete within the timeframe indicated in the Joint Secretary rules and policies to avoid administrative withdrawal of the application. Any consideration of licensure after that date will require the applicant to submit a new application, new documents, and the appropriate fee. The testing requirement is exempt from this timeframe.

(8) An applicant who passes the licensing examination and is under investigation for possible violation of the Nurse Practice Act may not be issued a license until the matter is resolved to the satisfaction of the Board. The license may be denied or sanctioned despite the applicant meeting all other criteria for licensure.

(9) For the purposes of this rule, the terms below are defined as follows:

(a) "Board" means the Georgia Board of Nursing.

(b) "Clinical experience" or "clinical practice" means the "hands on" clinical practice of nursing.

(c) "Health care facility" means an acute care inpatient facility, a long-term acute care facility, an ambulatory surgical center or obstetrical facility as defined in Code Section 31-6-2, and a skilled nursing facility so long as such skilled nursing care facility has 100 beds or more and provides health care to patients with similar health care needs as those patients in a long-term care acute care facility.

(d) "Preceptorship" means a program of clinical experience or clinical practice approved by the Board and arranged by the applicant in which the applicant gains a stated number of hours of clinical experience or clinical practice in a health care facility as required by Georgia law. Preceptorships shall be under the close supervision of a registered professional nurse where such applicant is transitioned into the role of a registered professional nurse and the applicant performs duties typically performed by registered professional nurses. Except as otherwise provided in O.C.G.A. § 43-26-7(b)(2)(B)(ii)(II), a preceptorship shall be in an acute care inpatient facility or a long-term acute care facility; provided, however, that the board may authorize a preceptorship in other facilities to obtain specialized experience in certain areas. The preceptorship shall have prior approval of the board, and successful completion of the preceptorship shall be documented in writing by the preceptor stating that, in his or her opinion, the applicant has exhibited the critical thinking abilities, clinical skills, and leadership abilities necessary to practice as a beginning registered professional nurse.

(e) "Preceptor" means a registered nurse licensed by the Georgia Board of Nursing who:

1. Has a minimum of eighteen months experience in an acute care practice setting; and

2. Has no history of disciplinary action with any licensing board.

(f) "Nontraditional Nursing Education Program" means a nursing education program that has been approved by the Board and meets all the requirements of O.C.G.A. § 43-26-7(e).

(g) "Year" means a minimum of 1800 hours. For example, one year of clinical experience or clinical practice means a minimum of 1800 hours of clinical experience or clinical practice.

Cite as Ga. Comp. R. & Regs. R. 410-2-.02

AUTHORITY: O.C.G.A. §§ 43-1-25**,** 43-26-2**,** 43-26-3**,** 43-26-5**,** 43-26-7**,** 43-26-8**.**

HISTORY: Original Rule was filed and effective on June 30, 1965.

Amended: Filed November 15, 1966; effective December 4, 1966.

Amended: Filed November 2, 1973; effective November 22, 1973.

Amended: Original Rule entitled "Nursing Defined" repealed and a new Rule entitled "Duties of Officers" adopted. Filed March 18, 1976; effective April 7, 1976.

Amended: Rule repealed. Filed December 18, 1986; effective January 7, 1987.

Adopted: New rule entitled "Graduates of Nontraditional Nursing Education Programs (RN)." F. Aug. 24, 2015; eff. Sept. 13, 2015.

Amended: F. July 27, 2023; eff. Aug. 16, 2023.

410-2-.03 Licensure by Examination - Graduates of International Nursing Education Programs (RN)

(1) The Board-recognized licensing examination is the National Council Licensure Examination for Registered Nurses (NCLEX-RN), for which a passing result must be achieved.

(2) An applicant must pass the licensing examination within a three year period from the date of eligibility for graduates of nursing education programs located outside of the United States.

(3) An applicant whose period of eligibility has expired must reestablish eligibility as a duly qualified applicant by enrolling in and graduating from an approved nursing education program as defined in O.C.G.A. § 43-26-3(1.2).

(4) Applicants for licensure by examination who have graduated from nursing education programs located outside of the United States must submit the following:

(a) A complete application containing data required by the board attesting that all information contained in, or referenced by, the application is complete and accurate and is not false or misleading;

(b) The required application processing fee which is not refundable;

(c) Completed registration as required by the Board to cause the submission of a criminal background check as required by O.C.G.A. § 43-26-7(b)(4);

(d) Verification from the licensing agency of current licensure as a registered nurse in another territory, province, state, district, or country;

(e) Transcripts documenting graduation from a registered nursing education program. Transcripts must be in English or accompanied by a certified English language translation directly from the school, another licensing board, or the Commission on Graduates of Foreign Nursing Schools (CGFNS);

(f) Credential Evaluation Service Professional Report from the Commission on Graduates of Foreign Nursing Schools (CGFNS) or the equivalent which verifies that the applicant:

1. Has the educational credentials equivalent to graduation from a governmentally accredited/approved, post-secondary general nursing program of at least two academic years in length;

2. Received both theory and clinical education in each of the following: nursing care of the adult which includes both medical and surgical nursing, maternal/infant nursing, nursing care of children, and psychiatric/mental health nursing;

3. Received initial registration/licensure as a registered nurse in the country where the applicant completed general nursing education; and

4. Is currently licensed as a registered nurse.

(g) Official documentation reflecting the applicant has achieved a minimum score of 550 (paper based), 213 (computer based) or 79 (internet based) on the Test of English as a Foreign Language (TOEFL) exam, or passing score on an equivalent exam as determined by the Board, if English is not the native language of the applicant; unless a substantial portion of the applicant's nursing program of study, as determined by the Board, was conducted in English.

(h) Applicants must provide documentation of completion of one of the following options within the four years immediately preceding the date of application:

1. Verification of five hundred (500) hours of licensed practice as a registered nurse in another jurisdiction during the four years immediately preceding the date of application;

2. Graduation from a nursing education program as defined in O.C.G.A. §§ 43-26-3(1.2) or 43-26-7(e); or

3. Verification of completion of a Board approved reentry program as provided in Rule 410-4-.03.

(i) Secure and verifiable documentation of United States citizenship or lawful presence in the United States as required by Georgia law; and

(j) Any additional information requested by the board needed to establish eligibility.

(5) If curricular deficiencies are identified by the Board, an official transcript which documents passing grades in the courses must be submitted by an approved education program.

(6) Requirements for licensure must be complete within the timeframe indicated in the Joint Secretary rules and policies to avoid administrative withdrawal of the application. Any consideration of licensure after that date will require the applicant to submit a new application, new documents, and the appropriate fee. The testing requirement is exempt from this timeframe.

(7) An applicant who passes the licensing examination and is under investigation for possible violation of the Nurse Practice Act may not be issued a license until the matter is resolved to the satisfaction of the Board. The license may be denied or sanctioned despite the applicant meeting all other criteria for licensure.

Cite as Ga. Comp. R. & Regs. R. 410-2-.03

AUTHORITY: O.C.G.A. §§ 43-1-25**,** 43-26-2**,** 43-26-5**,** 43-26-7**,** 43-26-61**, Article III(c)(3).**

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

Amended: Rule repealed and a new Rule of the same title adopted. Filed November 15, 1966; effective December 4, 1966.

Amended: Filed November 24, 1970; effective December 14, 1970.

Amended: Rule repealed. Filed March 18, 1976; effective April 7, 1976.

Adopted: New rule entitled "Graduates of International Nursing Education Programs (RN)." F. Aug. 24, 2015; eff. Sept. 13, 2015.

Amended: F. Oct. 19, 2018; eff. Nov. 8, 2018.

Amended: F. July 27, 2023; eff. Aug. 16, 2023.

410-2-.04 Licensure by Reexamination (RN)

(1) An applicant for licensure by examination who fails the examination must submit the following:

(a) A complete application containing data required by the board attesting that all information contained in, or referenced by, the application is complete and accurate and is not false or misleading;

(b) The required application processing fee which is not refundable;

(c) Completed registration as required by the Board to cause the submission of a criminal background check as required by O.C.G.A. § 43-26-7(b)(4); and

(d) Any additional information requested by the board needed to establish eligibility.

(2) Requirements for licensure must be complete within the timeframe indicated in the Joint Secretary rules and policies to avoid administrative withdrawal of the application. Any consideration of licensure after that date will require the applicant to submit a new application, new documents, and the appropriate fee. The testing requirement is exempt from this timeframe.

Cite as Ga. Comp. R. & Regs. R. 410-2-.04

AUTHORITY: O.C.G.A. §§ 43-1-25**,** 43-26-2**,** 43-26-3**,** 43-26-5**,** 43-26-7**.**

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

Amended: Rule repealed and a new Rule of the same title adopted. Filed November 15, 1966; effective December 4, 1966.

Amended: Rule repealed. Filed March 18, 1976; effective April 7, 1976.

Adopted: New rule entitled "Licensure by Reexamination (RN)." F. Aug. 24, 2015; eff. Sept. 13, 2015.

Amended: F. July 27, 2023; eff. Aug. 16, 2023.

410-2-.05 Licensure by Examination (LPN)

(1) The Board-recognized licensing examination is the National Council Licensure Examination for Practical Nurses (NCLEX-PN), for which a passing result must be achieved.

(2) An applicant must pass the licensing examination within a three year period from the date of graduation.

(3) An applicant whose period of eligibility has expired must reestablish eligibility as a duly qualified applicant by enrolling in and graduating from an approved nursing education program as defined in O.C.G.A. § 43-26-32(1.1).

(4) Applicants for licensure by examination who have graduated from a Board approved program in Georgia as defined in O.C.G.A. § 43-26-32(1.1) must submit the following:

(a) A complete application containing data required by the board attesting that all information contained in, or referenced by, the application is complete and accurate and is not false or misleading;

(b) The required application processing fee which is not refundable;

(c) Completed registration as required by the Board to cause the submission of a criminal background check as required by O.C.G.A. § 43-26-36.1;

(d) Official transcripts documenting graduation from an approved nursing education program;

(e) Secure and verifiable documentation of United States citizenship or lawful presence in the United States as required by Georgia law; and

(f) Any additional information requested by the board needed to establish eligibility.

(5) Applicants for licensure by examination who have graduated from a Board approved program as defined in O.C.G.A. § 43-26-32(1.1) located outside of Georgia must submit the following:

(a) A complete application containing data required by the board attesting that all information contained in, or referenced by, the application is complete and accurate and is not false or misleading, and the required application processing fee which is not refundable;

(b) Completed registration as required by the Board to cause the submission of a criminal background check as required by O.C.G.A. § 43-26-36.1;

(c) Official transcripts documenting graduation from an approved nursing education program determined by the Board to be comprised of substantially the same course of study as provided in Rule 410-9-.06;

(d) Secure and verifiable documentation of United States citizenship or lawful presence in the United States as required by Georgia law; and

(e) Any additional information requested by the board needed to establish eligibility.

(6) Requirements for licensure must be complete within the timeframe indicated in the Joint Secretary rules and policies to avoid administrative withdrawal of the application. Any consideration of licensure after that date will require the applicant to submit a new application, new documents, and the appropriate fee. The testing requirement is exempt from this timeframe.

(7) An applicant who passes the licensing examination and is under investigation for possible violation of the Nurse Practice Act may not be issued a license until the matter is resolved to the satisfaction of the Board. The license may be denied or sanctioned despite the applicant meeting all other criteria for licensure.

Cite as Ga. Comp. R. & Regs. R. 410-2-.05

AUTHORITY: O.C.G.A. §§ 43-1-25**,** 43-26-31**,** 43-26-32**,** 43-26-35**,** 43-26-36**,** 43-26-36.1**,** 43-26-37**.**

HISTORY: Original Rule entitled "Duties of Officers" was filed and effective on June 30, 1965.

Amended: Rule repealed and a new Rule of the same title adopted. Filed November 15, 1966; effective December 4, 1966.

Amended: Rule repealed. Filed March 18, 1976; effective April 7, 1976.

Adopted: New rule entitled "Licensure by Examination (LPN)." F. Aug. 24, 2015; eff. Sept. 13, 2015.

Amended: F. July 27, 2023; eff. Aug. 16, 2023.

410-2-.06 Licensure by Examination - Graduates of International Practical Nursing Education Programs (LPN)

(1) The Board-recognized licensing examination is the National Council Licensure Examination for Practical Nurses (NCLEX-PN), for which a passing result must be achieved.

(2) An applicant must pass the licensing examination within a three year period from the date of eligibility for graduates of nursing education programs located outside of the United States.

(3) An applicant whose period of eligibility has expired must reestablish eligibility as a duly qualified applicant by enrolling in and graduating from an approved nursing education program.

(4) Applicants for licensure by examination who have graduated from nursing education programs located outside of the United States must submit the following:

(a) A complete application containing data required by the board attesting that all information contained in, or referenced by, the application is complete and accurate and is not false or misleading;

(b) The required application processing fee which is not refundable;

(c) Completed registration as required by the Board to cause the submission of a criminal background check as required by O.C.G.A. § 43-26-36.1;

(d) Verification from the licensing agency of current licensure as a licensed practical nurse in another territory, province, state, district, or country;

(e) Transcripts documenting graduation from a practical nursing education program. Transcripts must be in English or accompanied by a certified English language translation directly from the school, another licensing board, or the Commission on Graduates of Foreign Nursing Schools (CGFNS);

(f) Credential Evaluation Service Professional Report from the Commission on Graduates of Foreign Nursing Schools (CGFNS) or the equivalent which verifies that the applicant:

1. Has the educational credentials equivalent to graduation from a governmentally accredited/approved, post-secondary general nursing program of at least one academic year in length;

2. Received both theory and clinical education in each of the following: nursing care of the adult which includes both medical and surgical nursing, maternal/infant nursing, nursing care of children, and psychiatric/mental health nursing;

3. Received initial registration/license as a practical nurse in the country where the applicant completed practical nursing education; and

4. Is currently registered/licensed as a practical nurse.

(g) Official documentation reflecting the applicant has achieved a minimum score of 550 (paper based), 213 (computer based) or 79 (internet based) on the Test of English as a Foreign Language (TOEFL) exam, or passing score on an equivalent exam as determined by the Board, if English is not the native language of the applicant; unless a substantial portion of the applicant's nursing program of study, as determined by the Board, was conducted in English.

(h) Applicants must provide documentation of completion of one of the following options within the five years immediately preceding the date of application:

1. Verification of five hundred (500) hours of licensed practice as a practical nurse in another jurisdiction during the four years immediately preceding the date of application;

2. Graduation from a nursing education program as defined in O.C.G.A. §§ 43-26-32(1.1); or

3. Verification of completion of a Board approved reentry program as provided in Rule 410-4-.02.

(i) Secure and verifiable documentation of United States citizenship or lawful presence in the United States as required by Georgia law; and

(j) Any additional information requested by the board needed to establish eligibility.

(5) If curricular deficiencies are identified by the Board, an official transcript which documents passing grades in the courses must be submitted by an approved education program.

(6) Requirements for licensure must be complete within the timeframe indicated in the Joint Secretary rules and policies to avoid administrative withdrawal of the application. Any consideration of licensure after that date will require the applicant to submit a new application, new documents, and the appropriate fee. The testing requirement is exempt from this timeframe.

(7) An applicant who passes the licensing examination and is under investigation for possible violation of the Nurse Practice Act may not be issued a license until the matter is resolved to the satisfaction of the Board. The license may be denied or sanctioned despite the applicant meeting all other criteria for licensure.

Cite as Ga. Comp. R. & Regs. R. 410-2-.06

AUTHORITY: O.C.G.A. §§ 43-1-25**,** 43-26-2**,** 43-26-5**,** 43-26-7**,** 43-26-32**,** 43-26-36**,** 43-26-61**,** Article III(c)(3).

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

Amended: Rule repealed and a new Rule of the same title adopted. Filed November 15, 1966; effective December 4, 1966.

Amended: Rule repealed. Filed March 18, 1976; effective April 7, 1976.

Adopted: New rule entitled "Licensure by Examination - Graduates of International Practical Nursing Education Programs (LPN)." F. Aug. 24, 2015; eff. Sept. 13, 2015.

Amended: F. Oct. 19, 2018; eff. Nov. 8, 2018.

Amended: F. July 27, 2023; eff. Aug. 16, 2023.

410-2-.07 Licensure by Reexamination (LPN)

(1) An applicant for licensure by examination who fails the examination must submit the following:

(a) A complete application containing data required by the board attesting that all information contained in, or referenced by, the application is complete and accurate and is not false or misleading;

(b) The required application processing fee which is not refundable;

(c) Completed registration as required by the Board to cause the submission of a criminal background check as required by O.C.G.A. § 43-26-36.1;

(d) Secure and verifiable documentation of United States citizenship or lawful presence in the United States as required by Georgia law; and

(e) Any additional information requested by the board needed to establish eligibility.

(2) Requirements for licensure must be complete within the timeframe indicated in the Joint Secretary rules and policies to avoid administrative withdrawal of the application. Any consideration of licensure after that date will require the applicant to submit a new application, new documents, and the appropriate fee. The testing requirement is exempt from this timeframe.

Cite as Ga. Comp. R. & Regs. R. 410-2-.07

AUTHORITY: O.C.G.A. §§ 43-1-25**,** 43-26-31**,** 43-26-32**,** 43-26-35**,** 43-26-36**,** 43-26-36.1**,** 43-26-37**.**

HISTORY: Original Rule entitled "Licensure by Reexamination (LPN)" adopted. New rule entitled F. Aug. 24, 2015; eff. Sept. 13, 2015.

Amended: F. July 27, 2023; eff. Aug. 16, 2023.

Department 410. RULES OF GEORGIA BOARD OF NURSING

Chapter 410-4. LICENSURE BY REINSTATEMENT

410-4-.01 Licensure by Reinstatement (RN)

(1) An applicant for licensure by reinstatement who was previously licensed as a registered nurse in the state of Georgia must submit the following:

(a) A complete application containing data required by the Board attesting that all information contained in, or referenced by, the application is complete and accurate and is not false or misleading;

(b) The required application processing fee which is not refundable;

(c) Completed registration as required by the Board to cause the submission of a criminal background check as required by O.C.G.A. § 43-26-7(d)(3);

(d) Documentation of one of the following within four years immediately preceding the date of application:

1. Five hundred (500) hours of licensed practice as a registered nurse as documented on the verification of employment form provided by the Board and, effective February 1, 2016, documentation of completion of one of the five competency requirements as set forth in O.C.G.A. § 43-26-9 within two years preceding the date of application for reinstatement;

2. Graduation from a nursing education program as defined in O.C.G.A. § 43-26-3(1.2); or

3. Completion of a Board approved reentry program as defined in Rule 410-4-.03.

(e) Secure and verifiable documentation of United States citizenship or lawful presence in the United States as required by Georgia law; and

(f) Any additional information requested by the Board needed to establish eligibility.

(2) Reinstatement of the license is within the discretion of the Board.

(3) The Board may require the passage of an examination or other competency assessments. The Board, in its discretion, may impose any remedial requirements deemed necessary.

(4) The Board may deny reinstatement for failure to demonstrate current knowledge, skill and proficiency in the practice of nursing or being mentally or physically unable to practice nursing with reasonable skill and safety or for any ground set forth in O.C.G.A. § 43-26-11.

(5) The denial of reinstatement is not a contested case within the meaning of Chapter 13 of Title 50, but the applicant shall be entitled to an appearance before the Board.

(6) An application must be complete within the timeframe indicated in the Joint Secretary rules and policies. Any application not completed within this period will be withdrawn. Any consideration of licensure after that date will require the applicant to submit a new application, new documents, and the appropriate fee.

(7) An applicant who is under investigation for possible violation of the Nurse Practice Act may not be issued a license until the matter is resolved to the satisfaction of the Board. The license may be denied or sanctioned despite the applicant meeting all other criteria for licensure.

Cite as Ga. Comp. R. & Regs. R. 410-4-.01

AUTHORITY: O.C.G.A. §§ 43-1-25**,** 43-26-2**,** 43-26-5**,** 43-26-7(d)**,** 43-26-8**,** 43-26-9**,** 43-26-9.1**.**

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

Amended: F. Nov. 15, 1966; eff. Dec. 4, 1966.

Repealed: New Rule entitled "Biennial Validation of Certificates" adopted. F. Feb. 8, 1974; eff. Feb. 28, 1974.

Amended: F. Aug. 5, 1974; eff. Aug. 25, 1974.

Repealed: New Rule entitled "Reports and Surveys" adopted. F. Mar. 18, 1976; eff. Apr. 7, 1976.

Repealed: New Rule entitled "Development and Implementation of New Nursing Education Programs" adopted. F. Aug. 6, 1984; eff. Aug. 26, 1984.

Amended: F. May 31, 1988; eff. June 20, 1988.

Amended: F. Aug. 1, 1989; eff. Aug. 21, 1989.

Amended: Authority changed. F. May 8, 1990; eff. May 28, 1990.

Repealed: New Rule of same title adopted. F. Aug. 23, 1990; eff. Sept. 12, 1990.

Amended: F. Oct. 6, 1992; eff. Oct. 26, 1992.

Repealed: New Rule of same title adopted. F. Nov. 22, 1994; eff. Dec. 12, 1994.

Amended: F. Oct. 14, 1998; eff. Nov. 3, 1998.

Repealed: New Rule of same title adopted. F. Sept. 26, 2007; eff. Oct. 16, 2007.

Repealed: New Rule entitled "Development and Implementation of New Nursing Education Programs. Amended" adopted. F. Jan. 23, 2013; eff. Feb. 12, 2013.

Repealed: New Rule entitled "Licensure by Reinstatement (RN)" adopted. F. Aug. 24, 2015; eff. Sept. 13, 2015.

Amended: F. July 27, 2023; eff. Aug. 16, 2023.

410-4-.02 Licensure by Reinstatement (LPN)

(1) An applicant for licensure by reinstatement who was previously licensed as a practical nurse in the state of Georgia must submit the following:

(a) A complete application containing data required by the Board attesting that all information contained in, or referenced by, the application is complete and accurate and is not false or misleading;

(b) The required application processing fee which is not refundable;

(c) Completed registration as required by the Board to cause the submission of a criminal background check as required by O.C.G.A. § 43-26-36.1;

(d) Documentation of one of the following within four years immediately preceding the date of application:

1. Five hundred (500) hours of licensed practice as a practical nurse as documented on the verification of employment form provided by the Board and documentation of completion of one of the two continuing

competency requirements as set forth in O.C.G.A. § 43-26-39 within two years of the date of application for reinstatement;

2. Graduation from a nursing education program as defined in O.C.G.A. § 43-26-32(1.1); or

3. Completion of a Board approved reentry program as defined in Rule 410-4-.04.

(e) Secure and verifiable documentation of United States citizenship or lawful presence in the United States as required by Georgia law; and

(f) Any additional information requested by the board needed to establish eligibility.

(2) Reinstatement of the license is within the discretion of the Board.

(3) The Board may require the passage of an examination or other competency assessments. The Board, in its discretion, may impose any remedial requirements deemed necessary.

(4) The Board may deny reinstatement for failure to demonstrate current knowledge, skill and proficiency in the practice of nursing or being mentally or physically unable to practice nursing with reasonable skill and safety or for any ground set forth in O.C.G.A. § 43-26-40.

(5) The denial of reinstatement is not a contested case within the meaning of Chapter 13 of Title 50, but the applicant shall be entitled to an appearance before the Board.

(6) An application must be complete within the timeframe indicated in the Joint Secretary rules and policies. Any application not completed within this period will be withdrawn. Any consideration of licensure after that date will require the applicant to submit a new application, new documents, and the appropriate fee.

(7) An applicant who is under investigation for possible violation of the Nurse Practice Act may not be issued a license until the matter is resolved to the satisfaction of the Board. The license may be denied or sanctioned despite the applicant meeting all other criteria for licensure.

Cite as Ga. Comp. R. & Regs. R. 410-4-.02

AUTHORITY: O.C.G.A. §§ 43-1-19**,** 43-1-25**,** 43-26-3**,** 43-26-5**,** 43-26-31**,** 43-26-32**,** 43-26-36**,** 43-26-39**.**

HISTORY: Original Rule entitled "Requirements for Reinstatement of Invalid Certificates" adopted. F. Feb. 8, 1974; eff. Feb. 28, 1974.

Amended: F. Aug. 5, 1974; eff. Aug. 25, 1974.

Repealed: New Rule entitled "Annual Reports" adopted. F. Mar. 18, 1976; eff. Apr. 7, 1976.

Repealed: F. Aug. 6, 1984; eff. Aug. 26, 1984.

Adopted: New Rule entitled "Licensure by Reinstatement (LPN)." F. Aug. 24, 2015; eff. Sept. 13, 2015.

Amended: F. Oct. 19, 2018; eff. Nov. 8, 2018.

Amended: F. July 27, 2023; eff. Aug. 16, 2023.

Department 413. GRANTS OF THE ONEGEORGIA AUTHORITY

Chapter 413-1. EQUITY FUND

413-1-.05 Eligible Activities

(1) Eligible uses of funds provided under the Equity Fund include those activities and the provision of facilities and services as described in O.C.G.A. 50-34-1 *et seq*. Such activities include, but are not limited to, the provision of such public infrastructure, services, facilities and improvements as: rail access, road improvements, water and sewer improvements, technology infrastructure, drainage improvements, other public utilities, public facilities and services specifically designed to increase economic opportunities through job training, workforce development, education, workforce housing, and other employment support services, the acquisition, clearance and disposition of real property, site preparation, site improvements, real property rehabilitation, and the provision of planning services and technical assistance.

(2) In addition, the Equity Fund may provide assistance to eligible applicants to finance facilities, projects and project costs for use by businesses and enterprises, purchase or lease of equipment or other assets or any other community or economic development and business assistance activity or purpose identified in O.C.G.A. 50-34-1 *et seq*. It is important to note that the proposed use of Equity Fund monies will dictate whether the funds can be provided to the applicant to undertake an activity, or whether they will be provided to the applicant but require a loan, lease or other agreement between the applicant and participating business or enterprise.

(3) In general, public acquisition or improvements of public facilities and infrastructure can be undertaken directly by the applicant with Equity Fund monies. Where Equity Fund monies are expended for the public acquisition and/or improvements of privately used land, buildings, machinery and equipment, or other private assets, the financed assets must generally be owned or controlled by the applicant and leased, subleased or sold to the business or enterprise in accordance with O.C.G.A. 36-62-7 and/or O.C.G.A. 50-34-6. In order to maximize their competitiveness for public water, wastewater, and solid-waste management projects, applicants are encouraged to discuss their project with the Georgia Environmental Facilities Authority (GEFA) before submitting a proposal to the Authority.

(4) The OneGeorgia Authority reserves the right to establish criteria regarding the nature, types and forms of financial assistance that the Equity Fund provides. In general, assistance will take the form of grants, low-interest loans or loan/grant combinations. The exact structure and amount will be determined by the activity to be financed, the financial capacity of the applicant, business and/or enterprise. Loans will be structured using generally accepted public and private financing instruments and procedures. All recaptured funds must be returned to the OneGeorgia Authority.

Cite as Ga. Comp. R. & Regs. R. 413-1-.05

AUTHORITY: O.C.G.A. § 50-34-1 ***et seq*.**

HISTORY: Original grant description entitled "Fund Availability" submitted November 1, 2000.

Submitted: Grant entitled "Eligible Activities" received Feb. 12, 2007.

Amended: Submitted July 30, 2023.

413-1-.06 Fund Availability

(1) When program funds are available, the OneGeorgia Authority will publish notices of funding availability (NOFA) to make eligible applicants aware of the funding criteria and application process. NOFA's will be published on the OneGeorgia Authority's website and at the discretion of the Authority, may also be made available to eligible applicants through other means, such as associations, advertisements, or other publications.

(2) The OneGeorgia Authority's NOFA will establish application submission guidelines and deadlines. Generally, applications will be accepted throughout the submission period and will be reviewed based upon the criteria provided in Section 413-1.09 and the NOFA.

(3) Eligible applicants must apply for assistance under this program in a format and manner prescribed by the OneGeorgia Authority. Application guides and guidelines may be obtained from the OneGeorgia Authority website.

Cite as Ga. Comp. R. & Regs. R. 413-1-.06

AUTHORITY: O.C.G.A. § 50-34-1 ***et seq*.**

HISTORY: Original grant description entitled "Eligible Activities" submitted November 1, 2000.

Submitted: Grant entitled "Fund Availability" received Feb. 12, 2007.

Amended: Submitted July 30, 2023.

413-1-.07 Application Submission Procedures

(1) The application process for the Equity Program includes an Initial Project Assessment and a separate Application. The purpose of the Initial Project Assessment is:

A) To determine whether a proposed activity or activities is eligible for Equity Program funds;

B) To determine whether the proposed activity or activities meet the basic Equity Program thresholds, and the project meets the competitive objectives of the NOFA. The proposed project must be competitive under the rating and review system as outlined in section 413-1-.09;

C) To enable eligible and conditionally eligible applicants, as referenced in the OneGeorgia Authority eligibility map, to obtain Pre-Agreement Cost Approval (PACA) from the Authority so that projects can pursue interim financing and proceed with necessary project activities prior to the Authority's application determination;

D) To afford adequate time for the Authority to offer technical assistance and applicants to make necessary application revisions in advance of the deadline.

(2) Eligible applicants may submit Initial Project Assessments and/or Applications for consideration at any time prior to the Application deadline. The OneGeorgia Authority requires potential applicants to contact the Authority or DCA to arrange a technical assistance review prior to submitting an Initial Project Assessment or Application.

(3) Initial Project Assessments and/or applications may be submitted individually by an eligible applicant, or jointly, by two or more applicants. Joint submission must contain a copy of the Cooperating Agreement entered into by the cooperating units of government. The agreement should designate the applicant that will serve as lead recipient should the project be funded.

(4) Initial Project Assessments and Applications for the Equity Program must be submitted in conformance with the format and applicable instructions specified by the OneGeorgia Authority.

Cite as Ga. Comp. R. & Regs. R. 413-1-.07

AUTHORITY: O.C.G.A. § 50-34-1 ***et seq*.**

HISTORY: Original grant description entitled "Review of Applications" submitted November 1, 2000.

Submitted: Grant entitled "Application Submission Procedures" received Feb. 12, 2007.

Amended: Submitted July 30, 2023.

413-1-.08 Review of Applications

(1) Upon receipt of the Initial Project Assessment, Authority staff will conduct a timely review to determine eligibility and conformance with basic threshold criteria. Potential applicants will then be notified to proceed, with general guidance about perceived competitiveness and limited technical assistance based on the preliminary information provided. Such assistance may involve DCA regional representatives; however, in no case will the Authority or DCA assist in the writing of the application.

(2) Upon receipt of a completed Application, the Application will be reviewed using the rating and selection factors specified in Section 413-1-.09 of these regulations, as well as any additional and/or supplemental information, data, analyses, documentation, commitments, assurances, etc. as may be required or requested by the Authority or DCA. Applications that contain insufficient information or documentation may be returned to the applicant for further information.

(3) Staff may conduct site visits and hold discussions with applicants and proposed sub-recipients for the purposes of confirmation and evaluating information contained in the Initial Project Assessment of Application. Staff may also consult with other appropriate government and private entities in the course of reviewing and evaluating information contained in the Initial Project Assessments and/or Applications.

(4) The scores obtained for the various selection factors will be totaled and applicants with scores of at least 300 points that meet all appropriate funding criteria that conform to the objectives of O.C.G.A. 50-34, as amended, and that can be carried out in compliance with all applicable state or local law, regulations or requirements will be recommended to the Authority for funding consideration.

Cite as Ga. Comp. R. & Regs. R. 413-1-.08

AUTHORITY: O.C.G.A. § 50-34-1 ***et seq*.**

HISTORY: Original grant description entitled "Awarding of Funds" submitted November 1, 2000.

Submitted: Grant entitled "Review of Applications" received Feb. 12, 2007.

Amended: Submitted July 30, 2023.

413-1-.09 Rating and Selection Criteria

Criteria	**Points**
Threshold Requirements	0
Demographics	100
Feasibility	120
Impact	120
Strategy	100
Regional Bonus	60
Total Available Points	500

(1) Threshold Requirements (In order to be rated and reviewed, an application must meet all threshold requirements identified below):

A) The application is from an eligible applicant;

B) The project takes place within a rural county or a conditionally eligible county, in which case the project must demonstrate significant regional benefit with tacit support from a bordering rural county.

C) The proposed use of funds are for eligible activities and will be carried out in a manner consistent with the state constitution, state law, program rules and objectives and in accordance with the applicant's (or sub-recipient's) enabling legislation and authority; and

D) The proposed activities are consistent with local and regional plans developed under the provisions of the Georgia Planning Act and the Service Delivery Strategies developed in accordance with O.C.G.A. 36-70-1 *et seq.*

(2) Demographics (100 points maximum): On an annual basis, demographic scores will be calculated for each county in the state. For purposes of assigning a demographic score for applications submitted by multiple applicants or an authority made up of multiple entities, the highest score from the group of counties which has endorsed the project or are members of the regional authority will be used. Applications will be rated and scored against each of the following demographic factors as calculated by the Department of Community Affairs using the most recent population, poverty and income estimates:

A) Demographic Need - total population of the Applicant County (joint applications will consider the county with the lowest population): Counties will be compared in terms of their total population level. Counties with a population less than 10,000 will receive 50 points; populations of 10,000 and 19,999 will receive 40 points; populations of 20,000 and 29,999 will receive 35 points; populations of 30,000 and 39,999 will receive 30 points; and populations greater than 40,000 will receive 25 points.

B) Demographic Need - percent of people in poverty: Counties will be compared in terms of the percentage of population below the poverty level. Counties with an overall poverty rate of 20% or greater shall receive 50 points. For counties with a poverty rate between 19.99% to 15%, the applicant will receive 40 points. For counties with a poverty rate between 14.99% to 10%, the applicant will receive 30 points. For counties with a poverty rate less than 10%, the applicant will receive 20 points. For joint applications, OGA or DCA will review and rank order each county's percentage of poverty.

(3) Project Feasibility (120 point Maximum) Applications will be awarded "feasibility" points according to specifics, that are included but not limited to, clearly defined in the NOFA.

(4) Project Impact (120 Points Maximum) Applicants will be awarded "impact" points according to specifics, that are included but not limited to, clearly defined in the NOFA.

(5) Program Strategy (100 Points Maximum) Applicants will be awarded "strategy" points according to specifics, that are included but not limited to, clearly defined in the NOFA.

(6) Regional Bonus (60 Points Maximum) Applicants will be awarded regional bonus points and can receive larger grant amounts as described in section 413-1-.10(1) based upon a project's demonstration of significant and quantifiable regional cooperation or impact using the criteria outlined below:

A) "Regional Cooperation" (60 points)- the proposed project is a regional initiative that evidences significant and quantifiable regional cooperation or impact.

(7) The criteria in this rule (413-1-.07) are designed to assist the OneGeorgia Authority and/or its agent in making a decision and only constitute minimum standards. Additional factors may be considered depending on the nature of particular projects and their relative merit compared to competing proposals and depending on the availability of funding at the time of application. The decisions made by the OneGeorgia Authority shall be final and conclusive.

Cite as Ga. Comp. R. & Regs. R. 413-1-.09

AUTHORITY: O.C.G.A. § 50-34-1 *et seq*.

HISTORY: Original grant description entitled "Statement of Conditions" submitted November 1, 2000.

Submitted: Grant entitled "Rating and Selection Criteria" received Feb. 12, 2007.

Amended: Submitted July 30, 2023.

413-1-.10 Awarding of Funds

(1) Award limits under the Equity's Program are typically set at $500,000 per project; however, specific limits will be published in a NOFA for a defined application period. Generally speaking, alternative funding limits will be applicable for funding specifically set-aside to accomplish objectives by the Authority.

(2) Limits may be waived upon recommendations of DCA Commissioner and approval of the OneGeorgia Authority's Board of Directors or upon recommendation and approval of the OneGeorgia Authority's Board of Directors.

Cite as Ga. Comp. R. & Regs. R. 413-1-.10

AUTHORITY: O.C.G.A. § 50-34-1 ***et seq*.**

HISTORY: Original grant description entitled "Awarding of Funds" submitted February 12, 2007.

Submitted: Feb. 28, 2007.

Submitted: Mar. 18, 2008.

Amended: Submitted July 30, 2023.

Department 505. PROFESSIONAL STANDARDS COMMISSION

Chapter 505-6. PROFESSIONAL PRACTICES

505-6-.08 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 505-6-.08

AUTHORITY: O.C.G.A. § 20-3-295**.**

HISTORY: Original Rule entitled "Student Loans" adopted. F. May 10, 2001; eff. June 1, 2001, as specified by the Agency.

Amended: F. Sept. 10, 2001; eff. Oct. 1, 2001, as specified by the Agency.

Repealed: F. July 27, 2023; eff. Aug. 15, 2023, as specified by the Agency.

Department 513. RULES OF PUBLIC RETIREMENT SYSTEMS

Chapter 513-7. GEORGIA FIREMAN'S PENSION FUND

Subject 513-7-1. ADMINISTRATIVE RULES

513-7-1-.05 Application for Membership

(1) A person applying for membership in the Fund shall file a completed application in the form prescribed by the Board, together with proof of date of birth, and a specified payment which shall be applied to dues payable for the first month of membership in the event the application is granted.

(2) As noted in the application, the applicant should select a beneficiary. A beneficiary is any person designated before or after the approval of an application for retirement, by the applicant or member to receive benefits which may continue to be payable upon the death of the member. See also 513-7-1-.12. If there is no stated beneficiary, the beneficiary will be the member's estate.

(3) The applicant shall furnish such additional information as may be requested by the Board or the Executive Director.

(4) Upon receipt of a completed application and upon Board approval, a letter of acceptance shall be mailed to the applicant and a copy to the applicant's fire department. For the member's convenience, a copy of the "Rules and Regulations" is available on the GFPF website.

(5) Upon acceptance to the Fund, new members shall be assigned a "Member Identification Number" (Member ID) to be used in all correspondence with the Pension Fund office and for access to member records in the "Member's Area" of the website.

(6) Upon the determination by the Executive Director that an applicant does not satisfy the objective standards of the Fund relating to membership, the Executive Director shall have authority to give notice to the applicant that the application has been rejected.

(7) When incomplete documentation is received by the Pension Fund the Fund staff will attempt to contact the member and the member's Fire Department to obtain missing documentation. If the staff is unable to obtain missing documentation, the application shall be returned to the applicant for resubmission.

(8) Membership in the Fund shall be deemed to have commenced on the date the Pension Fund receives a completed application which includes the first month's dues payment or electronic payment authorization. The Executive Director shall report such action to the Board.

Cite as Ga. Comp. R. & Regs. R. 513-7-1-.05

AUTHORITY: O.C.G.A. § 47-7-23.

HISTORY: Original Rule entitled "Duty to Report Address Changes" adopted. F. Dec. 23, 1985; eff. Apr. 19, 1984, as specified by the Agency.

Amended: F. Aug. 22, 1994; eff. Sept. 11, 1994.

Amended: F. Dec. 29, 1999; eff. Jan. 18, 2000.

Amended: F. Feb. 5, 2001; eff. Feb. 25, 2001.

Repealed: New Rule entitled "Application for Membership" adopted. F. Aug. 20, 2009; eff. Sept. 9, 2009.

Amended: F. Oct. 29, 2013; eff. Nov. 18, 2013.

Amended: F. Aug. 10, 2015; eff. Aug. 30, 2015.

Amended: F. July 28, 2023; eff. Aug. 17, 2023.

513-7-1-.09 Leave of Absence

(1) Leave of Absence.

(a) Any member of the Fund may request a Leave of Absence from the Fund when the member is no longer an active member of a fire department and no longer qualifies for membership in the fund, by submitting a written request for such leave to the Executive Director within thirty (30) days of the date the member wishes such leave. Upon submission of the request and approval by the Board, said request shall be granted for two years. The member shall state in the request the date the member ceased to qualify for membership and any change in mailing address.

(b) Before the end of the two year leave period, the member may, in writing, request a renewal of the leave status for an additional two years. Leaves of Absence may be renewed in such manner for an indefinite period.

(c) If a member re-enters the fire service, the member may apply for reinstatement. A request for reinstatement shall include a completed new member application and the first month's dues payment by check, money order, or electronic payment authorization.

(d) Pursuant to O.C.G.A. Section 47-7-41, the reinstatement to active membership from a Leave of Absence or an extension of a Leave of Absence shall be subject to the requirements of O.C.G.A. Section 47-7-40.

(e) A member is not required nor permitted to pay dues during a Leave of Absence, and no creditable service is earned during such leave.

(2) Military Leave of Absence.

(a) A member may request a Military Leave of Absence by submitting a written request, including a copy of activation orders, to the Executive Director. Such request shall be granted for the period the member remains on active duty.

(b) Members must rejoin the fire service and apply for re-instatement in the Pension Fund within one year of their release from active duty in order to preserve this benefit. A request for re-instatement shall include a new member application, a copy of military separation papers and the first month's dues payment by check, money order, or electronic payment authorization.

(c) Members on military leave who pay dues currently or within one year of their return from active military service shall receive pension creditable service for the period of active duty upon which the relevant dues amount is paid.

(3) A full time firefighter may earn up to 90 days/3 months of creditable service while on unpaid medical leave so long as the leave is reported to the Fund on forms prescribed by the Board.

(4) In the event a member fails to submit requested documentation regarding his/her status, a Leave of Absence may be imposed by the Board.

Cite as Ga. Comp. R. & Regs. R. 513-7-1-.09

AUTHORITY: O.C.G.A. § 47-7-23**.**

HISTORY: Original Rule entitled "Leave of Absence" adopted. F. Dec. 23, 1985; eff. Apr. 19, 1984, as specified by the Agency.

Amended: F. Nov. 20, 1990; eff. Dec. 10, 1990.

Amended: F. Aug. 22, 1994; eff. Sept. 11, 1994.

Amended: F. Dec. 29, 1999; eff. Jan. 18, 2000.

Amended: F. Feb. 5, 2001; eff. Feb. 25, 2001.

Amended: F. Aug. 20, 2009; eff. Sept. 9, 2009.

Amended: F. Oct. 29, 2013; eff. Nov. 18, 2013.

Amended: F. Aug. 10, 2015; eff. Aug. 30, 2015.

Amended: F. July 12, 2018; eff. August 1, 2018.

Amended: F. July 28, 2023; eff. Aug. 17, 2023.

513-7-1-.12 Retirement

(1) Applications: Requirements.

(a) Members qualifying for retirement and seeking to do so shall prepare and submit an application for retirement in a form prescribed by the Board of Trustees. Such form shall be submitted 60 days in advance of the planned retirement date. The form shall be signed by the Chief of the member's fire department. A Chief's retirement application shall be signed by the Chief's civilian supervisor (e.g., Mayor, City Manager, etc.).

(b) An application for retirement shall include the form to select a survivor option, and a beneficiary (if such has not already been chosen). This shall be verified during processing by the Pension Fund office. The three options available are:

1. Full Benefits-No survivor- a named beneficiary is required to receive the final pension payment after the retiree's death;

2. Option A - Joint and Survivor - beneficiary must be a legal spouse; and

3. Option B - Ten year Certain and Life - beneficiary may be a spouse or any non-spousal relationship, but must be an individual, see Rule 513-7-1-.14.

(c) A change in beneficiary designation may be made only upon forms prescribed by the Board and no change is effective until said completed form is received by the Fund. To be valid, a change in beneficiary designation shall be received in the Fund office prior to the member's death.

(2) Payments of retirement benefits shall not commence until it has been determined that all requirements for retirement eligibility have been satisfied and a completed application for retirement has been approved by the Board. A completed application must include proof of age of member and when the member chooses a Joint and Survivor option, proof of age of spouse and proof of marriage must also be provided. Notice of separation of employment for full-time and part-time employment must also be submitted. When a member's separation notice is unavailable at time of application submission, the member shall submit a copy within 60 days of receiving their first monthly pension benefit. If a copy is not received within the allowed 60 days, benefits will cease until the required document is received. For members that have dues in arrears, the amount due shall be subtracted from the first month's benefit payment.

(3) All volunteer firefighters, upon application for retirement, shall complete and submit a notarized Creditable Service Affidavit, indicating that they have met the requirements for creditable service since the previous year's affidavit was filed.

(4) Benefits may not commence until the member is no longer employed by a fire department nor engaged in a compensated capacity that would qualify him/her for membership in the Fund, except for as provided in (a) and (b) below.

(a) Retired firefighters, after retiring from service with their respective fire departments and commencing to receive benefits from this Fund, may then volunteer their time, service and resources to assist their local fire department in any capacity deemed appropriate to their expertise. So long as the retired firefighter is not compensated by the hour, by the call, per diem, or in any manner related to his/her service in an amount which creates a taxable event, the retired firefighter may continue to receive retirement benefits. The determinant of whether or not a firefighter is compensated or not compensated will rest with the production of tax reporting documentation for the individual. If a Form W-2 or Form 1099 is issued to report taxable income or transfer payments to a retired firefighter, then compensation shall be presumed, and benefits shall be suspended.

(b) If a retired firefighter is reimbursed for purchases made for personal equipment or on behalf of a fire department, bona fide receipts, certified by the firefighter as correct, shall be maintained and available to the pension office on request for a period not to exceed seven years.

(5) Retired firefighters who are receiving benefits and choose to return to service with a fire department shall notify the Fund within 30 days of re-employment. Benefits shall be suspended for the period of re-employment. Such member may re-join the Fund and earn additional creditable service under O.C.G.A. Sec. 47-7-101. Benefits will be resumed at the prior level, plus any increases granted in the interim, when the member subsequently retires.

(6) The retired member shall notify the Pension Fund office of any of the following changes: mailing address, direct deposit information, marital status (i.e., divorce, death of spouse, re-marriage), beneficiary, tax withholding or re-engagement for compensation in a capacity that qualifies for membership in the Pension Fund.

Cite as Ga. Comp. R. & Regs. R. 513-7-1-.12

AUTHORITY: O.C.G.A. § 47-7-23**.**

HISTORY: Original Rule entitled "Retirement" adopted. F. Dec. 23, 1985; eff. Apr. 19, 1984, as specified by the Agency.

Amended: F. Aug. 22, 1994; eff. Sept. 11, 1994.

Amended: F. Dec. 29, 1999; eff. Jan. 18, 2000.

Amended: F. Aug. 20, 2009; eff. Sept. 9, 2009.

Amended: F. Oct. 29, 2013; eff. Nov. 18, 2013.

Amended: F. July 28, 2023; eff. Aug. 17, 2023.

513-7-1-.14 Issuance of Benefit Payments

(1) Pension benefit payments shall commence in the month following the date the Board of Trustees approves the member's application for retirement. Benefits shall not be paid retroactively should the application be delayed or not submitted to the Board in a timely manner.

(2) Payments.

(a) Pension payments shall be made to retirees and beneficiaries by direct deposit.

(b) Retirees and their beneficiaries shall provide information for direct deposit of benefit payments to the checking or savings account of their choice. Direct deposit is the required payment method for efficiency and security. Direct deposit payments are released to retiree banks no later than the last day of the current month.

(3) Pension payments shall be issued to and in the name of the member only, except in the case of the survivor benefits payable under Option A (Joint & Survivor) or Option B (Ten years Certain). In the case of optional benefits, upon notice to the Fund of the death of the member, and receipt of evidence of death, benefit payments shall be issued in the name of the designated beneficiary.

(4) Death benefits, other than survivor benefits are available to beneficiaries of members who become deceased in the following circumstances:

(a) Beneficiaries of members with less than 15 years of creditable service shall be eligible to receive a one-time payment of $10,000.

(b) The beneficiary of a retired member who chooses the "Regular Retirement" option will be due:

1. The final payment at the end of the month during which the retiree died payable to the beneficiary; and

2. Should the retiree die prior to receiving a total of $10,000 in retirement benefits, the beneficiary shall receive the balance of $10,000, less the benefits paid-to-date to the retiree.

(c) Claims for death benefits must be supported by a notarized copy of the official death certificate.

Cite as Ga. Comp. R. & Regs. R. 513-7-1-.14

AUTHORITY: O.C.G.A. § 47-7-23**.**

HISTORY: Original Rule entitled "Issuance of Pension Checks" adopted. F. Dec. 23, 1985; eff. Apr. 19, 1984, as specified by the Agency.

Amended: F. Aug. 22, 1994; eff. Sept. 11, 1994.

Amended: F. Dec. 29, 1999; eff. Jan. 18, 2000.

Amended: F. Feb. 5, 2001; eff. Feb. 25, 2001.

Amended: F. Aug. 20, 2009; eff. Sept. 9, 2009.

Amended: F. Oct. 29, 2013; eff. Nov. 18, 2013.

Amended: New title, "Issuance of Benefit Payments." F. July 28, 2023; eff. Aug. 17, 2023.

Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-7. INCOME TAX DIVISION

Subject 560-7-8. RETURNS AND COLLECTIONS

560-7-8-.69 Qualified Law Enforcement Donation Credit

(1) **Purpose.** The purpose of this regulation is to provide guidance concerning the administration of the tax credit under O.C.G.A. § 48-7-29.25.

(2) **Definitions.**

(a) The terms "qualified contributions", "qualified expenditures", and "local law enforcement unit" shall have the same meaning as in O.C.G.A. § 48-7-29.25.

(b) "Law enforcement foundation" means any domestic nonprofit corporation with the sole function of supporting one local law enforcement unit through a formal relationship recognized by such local law enforcement unit and which maintains nonprofit status under Section 501(c)(3) of the Internal Revenue Code and tax-exempt status under O.C.G.A. § 48-7-25. A law enforcement foundation may conduct additional activities that support firefighters and first responders but cannot use qualified contributions for such additional activities.

(c) "Letter of authorization" means the letter from a local law enforcement unit that designates a law enforcement foundation as its sole and exclusive law enforcement foundation and that is signed by the chief of police, law enforcement head, or sheriff of the local law enforcement unit.

(d) "Form 990" means the annual information returns and electronic notices of the Federal Form 990 series filed with the Internal Revenue Service, including Form 990, Form 990-EZ, and Form 990-N.

(e) "Contributions Report" means the report detailing the contributions received that must be prepared on a calendar-year basis and submitted to the Department.

(3) **Certification of Qualified Law Enforcement Foundation.** The law enforcement foundation must apply for certification as a qualified law enforcement foundation and submit Form IT-LEF to the Department through the Georgia Tax Center. The Department will not process any Form IT-LEF that is submitted or filed in any other manner.

(a) Application. The law enforcement foundation must electronically attest on Form IT-LEF to the Department through the Georgia Tax Center that:

1. An authorized person is submitting Form IT-LEF on behalf of the law enforcement foundation;

2. A single local law enforcement unit has designated the applicant as its sole and exclusive qualified law enforcement foundation;

3. The law enforcement foundation agrees to fully comply with the terms and conditions under O.C.G.A. § 48-7-29.25; and

4. The law enforcement foundation understands that to knowingly prepare or present a document that is false, fictitious, or fraudulent in any matter within the jurisdiction of the Department is a felony under O.C.G.A. § 16-10-20.

(b) Letter of Authorization. The law enforcement foundation must submit the letter of authorization along with Form IT-LEF to the Department through the Georgia Tax Center. The letter of authorization must state:

1. The name of the local law enforcement unit;

2. The type of agency, office, or department of the local law enforcement unit;

3. The address of the local law enforcement unit;

4. The federal employer identification number of the local law enforcement unit;

5. The name of the law enforcement foundation that is designated by the local law enforcement unit to be its sole and exclusive law enforcement foundation;

6. The federal employer identification number of the law enforcement foundation that is designated by the local law enforcement unit to be its sole and exclusive law enforcement foundation;

7. The address of the law enforcement foundation that is designated by the local law enforcement unit to be its sole and exclusive law enforcement foundation;

8. The name of the previous law enforcement foundation that was designated by the local law enforcement unit to be its sole and exclusive law enforcement foundation (if applicable); and

9. The federal employer identification number of the previous law enforcement foundation that was designated by the local law enforcement unit to be its sole and exclusive law enforcement foundation (if applicable).

(c) Letter of Determination Recognizing Nonprofit Status under Section 501(c)(3) of the Internal Revenue Code. The law enforcement foundation must submit a copy of the letter of determination recognizing nonprofit status under Section 501(c)(3) of the Internal Revenue Code along with Form IT-LEF to the Department through the Georgia Tax Center.

1. If the law enforcement foundation has a pending application for nonprofit status filed with the Internal Revenue Service, it must submit copies of official correspondence from the Internal Revenue Service relating to the pending application, such as receipt acknowledgement letters or requests for additional information letters, along with Form IT-LEF to the Department through the Georgia Tax Center.

2. When the pending application is later processed by the Internal Revenue Service, the law enforcement foundation is not required to later submit a copy of the letter of determination recognizing nonprofit status under Section 501(c)(3) of the Internal Revenue Code to the Department.

3. If the law enforcement foundation has a pending protest after receiving a proposed adverse determination letter denying nonprofit status under Section 501(c)(3) of the Internal Revenue Code, the foundation must submit copies of official correspondence from the Internal Revenue Service Appeals Office, such as an acknowledgment and conference letter, along with Form IT-LEF to the Department through the Georgia Tax Center.

4. If the law enforcement foundation has a pending action for declaratory judgment after receiving a final adverse determination letter denying nonprofit status under Section 501(c)(3) of the Internal Revenue Code, the foundation must submit copies of court documents relating to the pending action, such as a notice of receipt of petition or a court order, along with Form IT-LEF to the Department through the Georgia Tax Center.

(d) The Department shall have rolling applications and certifications for qualified law enforcement foundations.

(e) Notice. The Department will notify the law enforcement foundation of the approval or denial of certification within thirty (30) days from the date the Form IT-LEF was submitted through the Georgia Tax Center.

(4) **Law Enforcement Foundation Designation Change.** If a qualified law enforcement foundation that was designated by a local law enforcement unit as the sole and exclusive foundation for the local law enforcement unit is no longer designated as such, then the qualified law enforcement foundation or the local law enforcement unit shall

notify the Department in writing. The law enforcement foundation shall be removed from the Department's list of approved qualified law enforcement foundations, and the Department shall not preapprove any future contributions to such law enforcement foundation. If a new law enforcement foundation is designated by the local law enforcement unit as the new sole and exclusive foundation for the local law enforcement unit, then the new law enforcement foundation shall apply for certification as a qualified law enforcement foundation.

(5) **Credit Cap.** In no event shall the aggregate amount of tax credits allowed under O.C.G.A. § 48-7-29.25 exceed $75 million per calendar year for years beginning on or after January 1, 2023 and ending on or before December 31, 2027, unless otherwise provided by law.

(6) **Individual Law Enforcement Foundation Limitation.** For each calendar year of the credit, no more than $3 million of credit shall be preapproved for qualified contributions to any individual law enforcement foundation. On the day and time any Form IT-QLED-TP1 is received during a calendar year that causes the individual law enforcement foundation limitation in this paragraph to be reached, then any subsequent credit preapproval applications for qualified contributions to such individual law enforcement foundation shall be denied. There shall be no proration based on the date an application is received. The Department shall notify such individual law enforcement foundation if the $3 million limitation is reached.

(a) If a taxpayer is denied preapproval for this tax credit by the Department due to the individual law enforcement foundation limitation in this paragraph, the taxpayer may reapply for preapproval and list a law enforcement foundation from the Department's list of approved law enforcement foundations that has not reached the individual law enforcement foundation limitation. For purposes of priority, in the event the credit cap is reached, the taxpayer's date of reapplication will govern.

(b) No provision in O.C.G.A. § 48-7-29.25 or in this regulation shall be construed to limit the ability of a local law enforcement unit to receive gifts, grants, and other benefits from any source allowed by law; provided, however, that no local law enforcement unit shall accept or receive more than $3 million in contributions made under O.C.G.A. § 48-7-29.25 and this regulation in any calendar year.

(7) **Credit Amount.** Subject to the aggregate limit provided in paragraph (5) and the individual law enforcement foundation limitation provided in paragraph (6), for calendar years beginning on January 1, 2023, and ending on or before December 31, 2027, the amount of qualified law enforcement donation credit allowed to a taxpayer shall be as follows:

(a) For an individual taxpayer or head of household, the credit amount shall not exceed the actual amount of qualified contributions made or $5,000, whichever is less.

(b) For an individual taxpayer filing a married-filing-separate return, the credit amount shall not exceed the actual amount of qualified contributions made or $5,000, whichever is less.

(c) For individual taxpayers filing a married-filing-joint return, the credit amount shall not exceed the actual amount of qualified contributions made or $10,000, whichever is less.

1. Example: Taxpayers, a married couple filing jointly, request preapproval for the qualified law enforcement donation credit for calendar year 2023 by electronically submitting Form IT-QLED-TP1 through the Georgia Tax Center. On Form IT-QLED-TP1, Taxpayers' intended 2023 contribution is $7,100; therefore, the Department preapproves Taxpayers for a qualified law enforcement donation credit of $7,100. Taxpayers make a $3,000 donation to the qualified law enforcement foundation within 60 days of receiving preapproval from the Department and before the end of 2023 (this is the only amount of qualified contributions made by Taxpayers to a qualified law enforcement foundation in 2023). When Taxpayers file their 2023 Georgia income tax return, they can only claim a qualified law enforcement donation credit of $3,000 (which is the actual amount of qualified contributions made), and the extra $4,100 that was preapproved but not contributed cannot be claimed by Taxpayers and cannot be carried forward. Any amount of the $3,000 qualified law enforcement donation credit claimed but not used on Taxpayers' 2023 Georgia income tax return shall be allowed to be carried forward to apply to their succeeding five years' tax liability.

(d) For an individual taxpayer who is a member of a limited liability company duly formed under state law (including a member who owns a single-member limited liability company that is disregarded for income tax purposes), a shareholder of a S corporation, or a partner in a partnership, the credit is limited to the actual amount of qualified contributions made or $10,000 per year, whichever is less; provided, however, that the tax credits shall only be allowed for the Georgia income on which such tax was actually paid by such member of a limited liability company, shareholder of a S corporation, or partner in a partnership. In determining such Georgia income, the shareholder, partner, or member shall exclude any income that was subtracted on their Georgia return because the entity paid tax at the pass-through entity level in Georgia as provided in Regulation 560-7-3-.03. If the individual taxpayer is a member, partner, or shareholder in more than one pass-through entity, the total credit allowed cannot exceed $10,000; the individual taxpayer decides which pass-through entities to include when computing Georgia income for purposes of the qualified law enforcement donation credit. All Georgia income, loss, and expense from the taxpayer-selected pass-through entities will be combined to determine Georgia income for purposes of the qualified law enforcement donation credit. Such combined Georgia income shall be multiplied by the applicable marginal tax rate to determine the tax that was actually paid. If the taxpayer is filing a joint return, the taxpayer's spouse may also claim a credit for the spouse's ownership interests and shall separately be eligible for a credit as provided in this subparagraph. If the taxpayer is preapproved for an amount that exceeds the amount that is calculated as allowed when the return is filed, the excess amount cannot be claimed by the taxpayer and cannot be carried forward.

1. Example: Taxpayer, an individual taxpayer, is the sole shareholder of A, Inc., an S corporation. Taxpayer is also a 50% partner in BC Company, a partnership, and is also a 20% member of a limited liability company, XYZ Company, which is taxed as a partnership. Taxpayer requests preapproval for the qualified law enforcement donation credit for calendar year 2023 by submitting Form IT-QLED-TP1. On Form IT-QLED-TP1, Taxpayer estimates that the Georgia income from A, Inc. is $120,000 and that the share of Georgia income from BC Company is $60,000. Taxpayer chooses not to include any income from XYZ Company when estimating Georgia income for purposes of the qualified law enforcement donation credit; therefore, the Department preapproves Taxpayer for a qualified law enforcement donation credit of $10,000 (since $10,000 is less than $10,350 (5.75% of $180,000) and the applicable marginal tax rate for 2023 is 5.75%). Taxpayer makes a $10,000 donation to the law enforcement foundation within 60 days of receiving preapproval from the Department and before the end of 2023. When Taxpayer files the_2023 Georgia income tax return, Taxpayer received a salary from A, Inc. of $50,000, and A, Inc.'s actual Georgia income is $60,000. Taxpayer's actual share of Georgia income from BC Company is $20,000, and Taxpayer received a guaranteed payment from BC Company of $15,000. Taxpayer's actual share of Georgia income from XYZ Company is $5,000 (Taxpayer can choose to include this company even though it was not considered at the time of preapproval). Taxpayer can only claim a qualified law enforcement donation credit of $8,625 (which is 5.75% of the $150,000 actual income from Taxpayer's selected pass-through entities), and the extra $1,375 cannot be claimed by Taxpayer and cannot be carried forward. Any amount of the $8,625 qualified law enforcement donation credit claimed but not used on Taxpayer's 2023 Georgia income tax return shall be allowed to be carried forward to apply to Taxpayer's succeeding five years' tax liability.

(e) For a corporation, fiduciary, an S corporation that makes the election to pay tax at the entity level under O.C.G.A. § 48-7-21, or a partnership that makes the election to pay tax at the entity level under O.C.G.A. § 48-7-23, the credit amount shall not exceed the actual amount of qualified contributions made or 75 percent of the corporation's, fiduciary's, electing S corporation's, or electing partnership's income tax liability, whichever is less. Fiduciary entities cannot pass the credit through to their beneficiaries. S corporations and partnerships that elect to pay taxes at the entity level may make an irrevocable election to pass all or part of the credit through to their members, partners, or shareholders by completing the "credit allocation to owners" schedule on an original or amended Form 600S or Form 700.

1. Example: Taxpayer, a corporation, requests preapproval for the qualified law enforcement donation credit for calendar year 2023 by electronically submitting Form IT-QLED-TP1 through the Georgia Tax Center. On Form IT-QLED-TP1, Taxpayer's intended 2023 contribution is $75,000, and Taxpayer's estimated 2023 income tax liability is $100,000. Therefore, the Department preapproves Taxpayer for a qualified law enforcement donation credit of $75,000 for 2023. Taxpayer makes a $75,000 donation to the law enforcement foundation within 60 days of receiving preapproval from the Department and before the end of 2023. When Taxpayer files its 2023 Georgia income tax return, Taxpayer's 2023 income tax liability is $80,000. Taxpayer can only claim a qualified law enforcement donation credit of $60,000 ($60,000 is 75% of the actual 2023 Georgia income tax liability), and the

extra $15,000 cannot be claimed by Taxpayer and cannot be carried forward. Any amount of the $60,000 qualified law enforcement donation credit claimed but not used on Taxpayer's 2023 Georgia income tax return shall be allowed to be carried forward to apply to its succeeding five years' tax liability.

2. Example: Taxpayer, a S corporation electing to pay tax at the entity level, requests preapproval for the qualified law enforcement donation credit for calendar year 2023 by electronically submitting Form IT-QLED-TP1 through the Georgia Tax Center. On Form IT-QLED-TP1. Taxpayer's intended 2023 contribution is $75,000, and Taxpayer's estimated 2023 income tax liability is $100,000. Therefore, the Department preapproves Taxpayer for a qualified law enforcement donation credit of $75,000 for 2023. Taxpayer makes a $75,000 donation to the law enforcement foundation within 60 days of receiving preapproval from the Department and before the end of 2023. When Taxpayer files its 2023 Georgia income tax return, Taxpayer's 2023 income tax liability is $80,000. Taxpayer can only claim a qualified law enforcement donation credit of $60,000 ($60,000 is 75% of the actual 2023 Georgia income tax liability), and the extra $15,000 cannot be claimed by Taxpayer and cannot be carried forward. Any amount of the $60,000 qualified law enforcement donation credit claimed but not used on Taxpayer's 2023 Georgia income tax return shall be allowed to be carried forward to apply to its succeeding five years' tax liability but shall not be allowed to be passed through to and used by the shareholders unless an election is made to pass the credit through to the shareholders.

(f) Except as provided in subparagraph (7)(e) of this regulation, when the taxpayer is a pass-through entity that has no income tax liability of its own, the tax credits will be considered earned by its members, shareholders, or partners based on their profit/loss percentage at the end of the year and the limitations of subparagraph (7)(d) of this regulation. The expenditure is made by the pass-through entity, but all credit forms (preapproval, claiming, and reporting) will be filed in the name of its members, shareholders, or partners. The credit can only be applied against the shareholders', members', or partners' tax liabilities on their income tax returns. The pass-through entity shall provide all necessary information to the law enforcement foundation so that the preapproval, claiming, and reporting forms can be filed in the name of its members, shareholders, or partners.

(g) A taxpayer may apply to make a donation to multiple law enforcement foundations or may apply to make multiple donations to the same law enforcement foundation; provided, however, that each donation must be applied for separately.

(8) **Form 990.** Each qualified law enforcement foundation must submit a copy of its most recent Form 990 to the Department by May 15. If the qualified law enforcement foundation filed the Form 990-N, then it must submit a copy of the filing confirmation or the listing by the Internal Revenue Service of the Form 990-N filing to the Department. If the qualified law enforcement foundation is not required by federal law to file a Form 990, then the foundation must submit the Form 990 Proxy Spreadsheet found on the Department's website through the Georgia Tax Center by May 15.

(9) **Contributions Report.**

(a) The contributions report detailing the contributions received for the prior calendar year shall be submitted by each qualified law enforcement foundation by May 15. Form IT-QLED-LEF2 shall be the form used to submit the report. The report shall be submitted electronically through the Georgia Tax Center.

(b) The report shall be prepared on a calendar-year basis, regardless of the fiscal year of the qualified law enforcement foundation.

(c) The report shall include the following:

1. The total number and dollar value of individual contributions and qualified law enforcement donation credits preapproved. Individual contributions shall include contributions made by those filing income tax returns as single, head of household, married filing separately, and married filing jointly;

2. The total number and dollar value of corporation, trust, S corporation, and partnership contributions and qualified law enforcement donation credits preapproved;

3. The total number and dollar value of all qualified expenditures made;

4. A list of contributors, including the dollar value of each contribution and the dollar value of each preapproved tax credit; and

5. Any other information required by the Commissioner.

(10) **Website Posting by the Department.** The following shall be posted on the Department's website:

(a) The application and requirements to be certified as a qualified law enforcement foundation:

(b) The list of all qualified law enforcement foundations and their affiliate local law enforcement units;

(c) The aggregate amount of tax credits remaining and available for preapproval for each year;

(d) The method for taxpayers seeking preapproval status for contributions through the Georgia Tax Center; and

(e) The Form 990 and contributions report received from each qualified law enforcement foundation, except for the information in subparagraph (c)4. of paragraph (9).

(11) **Confidential Taxpayer Information.** Except for the information published under paragraph (10), all information or reports relative to O.C.G.A. § 48-7-29.25 and this regulation that were provided by qualified law enforcement foundations to the Department shall be confidential taxpayer information, governed by O.C.G.A. §§ 48-2-15, 48-7-60, and 48-7-61, whether such information relates to the contributing taxpayer or the qualified law enforcement foundation.

(12) **Mandatory Electronic Preapproval of the Contribution.**

(a) The taxpayer must electronically submit Form IT-QLED-TP1 through the Georgia Tax Center to request preapproval of the qualified law enforcement donation credit from the Department. The Department will not preapprove any qualified law enforcement donation credit where the Form IT-QLED-TP1 is submitted or filed in any other manner. Each qualified law enforcement foundation shall be registered with the Department to facilitate the preapproval process for Form IT-QLED-TP1.

(b) The taxpayer should not submit Form IT-QLED-TP1 to the Department until the taxpayer's recipient law enforcement foundation is listed on the Department's website. If the taxpayer's recipient law enforcement foundation is not listed on the website at the time that the Department attempts to verify the organization's listing, the Department shall deny the preapproval request. If, at a later date, the taxpayer's recipient law enforcement foundation becomes listed, it will be necessary for the taxpayer to submit a new Form IT-QLED-TP1 to the Department.

(c) The electronic Form IT-QLED-TP1 shall include the following information:

1. The name of the qualified law enforcement foundation listed on the Department's website to which the contribution will be made;

2. The taxpayer identification number of the qualified law enforcement foundation to which the contribution will be made;

3. The name, address, and taxpayer identification number of the taxpayer;

4. The type of taxpayer;

5. If the taxpayer is an individual, the filing status;

6. If the taxpayer is an individual filing a joint return, the name and taxpayer identification number of the joint filer;

7. The intended contribution amount;

8. If the contributor is a corporation, fiduciary, electing S corporation, or electing partnership, 75% of the estimated income tax liability the corporation, fiduciary, electing S corporation, or electing partnership expects for the tax year of the corporation, fiduciary, S corporation, or partnership in which the contribution will be made;

9. Tax year end of the taxpayer;

10. Calendar year in which the contribution will be made;

11. Any other information the Commissioner may require;

12. Certification that all information contained on the Form IT-QLED-TP1 is true to his/her best knowledge and belief and is submitted for the purpose of obtaining preapproval from the Commissioner.

(d) The qualified law enforcement donation credit shall be allowed on a first-come, first-served basis. The date and time the Form IT-QLED-TP1 is electronically submitted shall be used to determine such first-come, first-served basis.

(e) The Department will notify each taxpayer and the taxpayer's selected qualified law enforcement foundation of the tax credits preapproved, denied, or prorated to such taxpayer within 30 days from the date the Form IT-QLED-TP1 was received.

(f) On the day any Form IT-QLED-TP1 is received for a calendar year that causes the calendar-year limit in paragraph (5) of this regulation to be reached, the remaining tax credits shall be allocated among the applicants who submitted the Form IT-QLED-TP1 on the day the calendar-year limit was exceeded on a pro rata basis based upon the amounts otherwise allowed by O.C.G.A. § 48-7-29.25 and this regulation. Only credit amounts on Form IT-QLED-TP1(s) received on the day the calendar-year limit was exceeded shall be allocated on a pro rata basis.

(g) The contribution must be made by the taxpayer within 60 days of the date of the preapproval notice received from the Department and within the calendar year in which it was preapproved.

(h) In the event it is determined that a taxpayer has not met all the requirements of O.C.G.A. § 48-7-29.25, then the qualified law enforcement donation credit shall not be preapproved or the preapproved qualified law enforcement donation credit shall be retroactively denied. With respect to such denied credit, any applicable tax, interest, and penalties shall be due if the qualified law enforcement donation credit has already been claimed.

(i) If the Commissioner preapproved a donation for a tax credit prior to the date the qualified law enforcement foundation is removed from the Department's list pursuant to O.C.G.A. § 48-7-29.25(j) and paragraph (22) of this regulation, notwithstanding any laws to the contrary, the Department shall not take any adverse action against preapproved donors, and all such donations shall remain as preapproved tax credits subject only to the donor's compliance with O.C.G.A. § 48-7-29.25(e) and this paragraph.

(j) Once the calendar-year limit is reached for a calendar year, taxpayers shall no longer be eligible for a credit pursuant to O.C.G.A. § 48-7-29.25 for such calendar year. If any Form IT-QLED-TP1 is received after the calendar-year limit has been reached, then it shall be denied and not be reconsidered for preapproval at any later date.

(13) **Letter of Confirmation.** Form IT-QLED-LEF1 shall be provided by the law enforcement foundation to the taxpayer to confirm the contribution within 15 days of the contribution.

(14) **Claiming the Credit.** A taxpayer claiming the qualified law enforcement donation credit, unless indicated otherwise by the Commissioner, must submit Form IT-QLED-TP2 with the taxpayer's Georgia tax return when the qualified law enforcement donation credit is claimed. An electronically filed Georgia income tax return that includes the software's electronic Form IT-QLED-TP2 satisfies this requirement.

(15) **E-filing Attachment Requirements.** If a taxpayer claiming the credit electronically files their tax return, the Form IT-QLED-LEF1 shall be required to be attached to the return only if the Internal Revenue Service allows such attachments when the data is transmitted to the Department. In the event the taxpayer files an electronic return and such information is not attached because the Internal Revenue Service does not, at the time of such electronic filing, allow electronic attachments to the Georgia return, such information shall be maintained by the taxpayer and made available upon request by the Commissioner.

(16) **Carry Forward.** Any credit that is claimed but not used in a taxable year shall be allowed to be carried forward to apply to the taxpayer's succeeding five years' tax liability. However, any amount in excess of the credit amount limits in paragraph (7) of this regulation shall not be eligible for carryforward to the taxpayer's succeeding years' tax liability, nor shall such excess amount be claimed by or reallocated to any other taxpayer.

(17) **Taxpayer Must Add Back Portion of Federal Deduction on State Return if Taxpayer Takes State Credit.** O.C.G.A. § 48-7-29.25(k) provides that no qualified law enforcement donation credit shall be allowed under O.C.G.A. § 48-7-29.25 with respect to any amount deducted from taxable net income by the taxpayer. If the taxpayer is allowed the state income tax deduction as allowed by the Internal Revenue Service, for purposes of this paragraph, such deduction shall be considered a charitable contribution to the extent such deduction is allowed federally. Accordingly, the taxpayer must add back to Georgia taxable income that part of any federal deduction taken on a federal return for which a Georgia qualified law enforcement donation credit is allowed under O.C.G.A. § 48-7-29.25.

(a) If a taxpayer's itemized deductions are limited federally (and therefore limited for Georgia purposes) because their Federal Adjusted Gross Income exceeds a certain amount, the taxpayer is only required to add back to Georgia taxable income that portion of the federal charitable deduction that was deducted. The federal charitable deduction that must be added back to Georgia taxable income shall be the amount of the federal charitable contribution relating to the qualified law enforcement donation credit multiplied by the following ratio: The numerator is the amount of the itemized deductions subject to limitation and allowed as itemized deductions after the limitation is applied. The denominator is the total itemized deductions that are subject to limitation before the limitation is applied.

1. For example. A taxpayer has a charitable contribution of $2,500 relating to the qualified law enforcement donation credit of $2,500 and has property taxes of $1,500, both of which are subject to limitation. The taxpayer also has mortgage interest expense of $10,000 (which is not limited). Accordingly, the taxpayer's total itemized deductions before limitation are $14,000. After applying the federal limitation, the taxpayer is allowed $13,000 in itemized deductions. As such, only $3,000 ($13,000 less the $10,000 mortgage interest expense, which is not limited) of the original $4,000 charitable deduction and property taxes are allowed to be deducted. Applying the ratio from the subparagraph above, the taxpayer must add back $1,875 of the charitable contribution to their Georgia taxable income (($2,500) X ($3,000 / $4,000)).

(18) **Website Posting by Qualified Law Enforcement Foundation.** By April 1st of each year, each qualified law enforcement foundation shall post on its website in a prominent place a copy of its affiliated local law enforcement unit's prior year's annual budget containing the total amount of funds received from the local law enforcement unit's local governing body. If a qualified law enforcement foundation does not maintain a public website, such information shall be otherwise made available by the foundation to the public upon request.

(19) **Designation of Contributions.** The tax credit shall not be allowed if the taxpayer directly or indirectly designates the taxpayer's qualified contributions to any particular purpose or for the direct benefit of any particular individual.

(20) **Direct Contracts.** The tax credit shall not be allowed for contributions made to a qualified law enforcement foundation if the taxpayer directly or indirectly operates, owns, or is a subsidiary of an association, organization, or other entity that contracts directly with such qualified law enforcement foundation or its affiliated local law enforcement unit.

(21) **Soliciting Contributions.** In soliciting contributions, a law enforcement foundation shall not represent or direct a local law enforcement unit to represent that, in exchange for contributing to the law enforcement foundation, a taxpayer shall receive a direct or particular benefit.

(22) **Failure to Comply and Revocation of Qualified Status.**

(a) Any qualified law enforcement foundation that fails to comply with the requirements under O.C.G.A. § 48-7-29.25 shall be given written notice of its failure and have 90 days from receipt of such notice to correct all deficiencies.

(b) If the qualified law enforcement foundation fails to correct all deficiencies within 90 days of receipt of notice from the Department, such qualified law enforcement foundation shall:

1. Have its status as a qualified law enforcement foundation revoked and be immediately removed from the Department's list of approved qualified law enforcement foundations;

2. Have all applications for preapproval of tax credits under O.C.G.A. § 48-7-29.25 rejected by the Department on or after the date that the Department removes the qualified law enforcement foundation from its list of approved qualified law enforcement foundations; and

3. Be required to cease all operations as a qualified law enforcement foundation and transfer all contribution funds that are not yet expended to a properly operating qualified law enforcement foundation within 30 days of receipt of notice from the Department of removal from the approved list.

(c) Notwithstanding subparagraphs (a) and (b), any qualified law enforcement foundation that fails to comply with the requirements under O.C.G.A. § 48-7-29.25(i)(3) and paragraph (21) of this regulation shall have its status as a qualified law enforcement foundation revoked and shall not be renewed as a qualified law enforcement foundation for at least two years from the date of the revocation.

1. The law enforcement foundation shall be removed from the Department's list of approved qualified law enforcement foundations, and the Department shall not preapprove any contributions to such law enforcement foundation.

(23) **Effective Date.** This regulation shall be applicable to years beginning on or after January 1, 2023.

Cite as Ga. Comp. R. & Regs. R. 560-7-8-.69

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-7-29.25**.**

HISTORY: Original Rule entitled "Qualified Law Enforcement Donation Credit" adopted. F. July 10, 2023; eff. July 30, 2023.

Department 609. STATE BOARD OF EXAMINERS OF SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

Chapter 609-8. RENEWAL AND REINSTATEMENT

609-8-.02 Late Renewal

(1) Each license will expire and must be renewed by March 31st of odd numbered years. Licenses not renewed by this date may be renewed during the late renewal period of April 1 - April 30th of the corresponding year with payment of a late renewal fee in addition to the renewal fee. Late renewal applications must be accompanied by proof that all CE requirements have been met for the biennium.

(2) Failure to renew a license by the end of the established late renewal period shall have the same effect as revocation, subject to reinstatement in the discretion of the Board.

(3) Practicing with a lapsed or administratively revoked license is prohibited by law, and any unlicensed practice during this period may result in disciplinary action at the time of reinstatement.

Cite as Ga. Comp. R. & Regs. R. 609-8-.02

AUTHORITY: O.C.G.A. §§ 43-1-4**,** 43-1-7**,** 43-1-19**,** 43-1-25**,** 43-44-6**,** 43-44-7**,** 43-44-11**.**

HISTORY: Original Rule entitled "Board Notification of Change in Name, Address or Employment Status of Licensee" adopted. F. June 8, 1978; eff. June 28, 1978.

Repealed: New Rule entitled "Reinstatement" adopted. F. June 22, 1989; eff. July 12, 1989.

Amended: F. May 19, 1998; eff. June 8, 1998.

Repealed: New Rule entitled "Late Renewal" adopted. F. Sept. 22, 2004; eff. Oct. 12, 2004.

Amended: F. July 20, 2023; eff. Aug. 9, 2023.