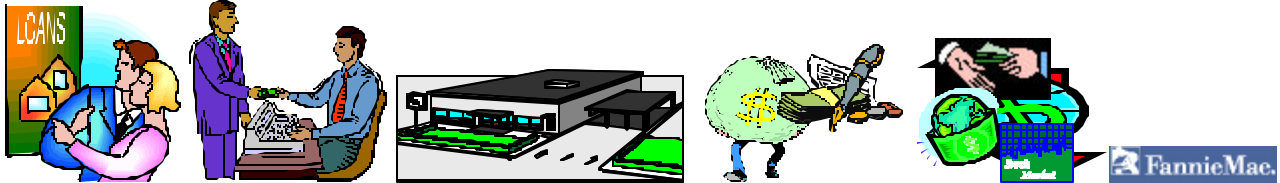


Georgia Residential Mortgage Act- Article 13 OCGA

The Mortgage Industry is simply the purchase and sale of money with the real property serving as the security interest to the ultimate investor. The originating lender can fund the loan through Direct Investment, Table Funding/Brokered Loan, and/or Warehousing.

On table-funded transactions, the loan closes in the originating lender's name and is immediately assigned to the funding lender at closing. On Brokered loans, the loan closes in the wholesale lenders name, the originator receives a fee for matching the consumer to the lender.



Consumers; Mortgage Broker/L. O.; Retail Originating Lenders; Wholesale Funding Lenders; Secondary Mkt

Article 13 of OCGA regulates licensees who are allowed to participate in the mortgage industry if the residential property (*1 to 4 unit primary residence of a natural person*) is located in the State of Georgia. The licenses are: Loan Processor, Mortgage Broker, and Mortgage Lender. Georgia residential loans are serviced by the originating lender or sold in the secondary market.



Consumers LO.,M.B., Processor MB or Mortgage Lender Wholesale Lenders; Secondary Mkt

Loan Officer- is an unlicensed originator who works as an employee (W-2 basis) of a mortgage broker or mortgage lender. Can not work for more than 1 employer and must pass criminal background check.

Loan Processor – is responsible for the assembling, reviewing, verifying, and processing of mortgage data. If licensed, can be an independent contractor (1099-basis) for various GA licensees (MB or ML). No license is required if an employee of a GA licensee (MB or ML).

Mortgage Broker - Licensed to “solicit, process, place or negotiates loans for others, or closes mortgage loans in their own name and assign within 24 hours (table fund). Can pay licensed mortgage brokers and processors on a 1099-basis, however all un-licensed persons must be employees (W-2). \$50,000 irrevocable line of credit required or \$50,000 surety bond.

Mortgage Lender - Licensed to “make, originate, purchase, or service mortgage loans. Lifetime servicing period. Can pay licensed mortgage brokers and processors on a 1099-basis, however all un-licensed persons must be employees W-2). \$150,000 net worth required, as evidenced by \$150,000 irrevocable line of credit or \$150,000 surety bond (audited statements not required).

Both Mortgage Brokers and Lenders must have a registered agent with a physical address in the State of Georgia. All licensees and un-licensed employees must pass a background check.

Article 13- Georgia Residential Mortgage Act (GRMA -O.C.G.A)

Article 13-GRMA	Loan Officer	Loan Processor	Mortgage Broker	Mortgage Lender
Sevicing period	n/a	n/a	24hrs	Life of the loan
Net Worth	n/a	n/a	\$50000 L.O.C. Annual audit stmts required if HUD-approved.	\$150000 (irrevocable letter of credit) or surety bond
Surety Bond	n/a	\$50,000	\$50,000	\$150,000
Permitted to:	Broker mortgages as an employee of Licensed MB or ML. Paid W-2 basis	Process loans for Mig Brks and Mortgage Lenders on 1099-Basis	Solicit, Process, Negotiate mortgage loans. Close/Assign loans within 24 hrs.	Makes, Originates, Purchases or Services a mortgage loan
Renewal Period		Apri-1 -annually; July 1- expires	Apri-1 -annually; July 1-expires	Apri-1 -annually; July 1-expires
Inactive Period		3mos-June 30th (Annually)	3mos-June 30th (Annually)	3mos-June 30th (Annually)
Application fee	\$30 Finger Print Card	500 +\$30 Finger Print card	\$500+ \$250 initial investigation fee(main office +1 branch)+ \$30 Fprint card all principals,managers	\$1000+ \$250 initial investigation fee(main office +1 branch)+ \$30 Fprint card all principals, managers
Renewal fee		\$500	\$500	\$1,000
Branch fee	n/a	n/a	\$350+ \$250 initial investigation fee -addl branches	\$350+ \$250 initial investigation fee -addl branches
Reactivation fee (late fee)		\$300	\$300	\$300
Education	n/a	40hrs-1hr Fraud;or 4hrs State Law -2yrs exp.	40hrs no experience-1hr Fraud; or 4hrs Ga State Law if 2yrs full-time experience	none
Continuing Education	n/a	n/a	12 hours annually with 1 hr on Fraud Detection (FY 2008)	none
Physical Office	n/a	n/a	Out of state applicants -Yes if home state requires an office	Out of state applicants -Yes if home state requires an office
Organization structure	n/a	n/a	Must have Registered Agent in the State of GA -physical address	Must have Registered Agent in the State of GA -physical address
Branch Org structure	n/a	n/a	All branch mgrs and L.O. must register with state and pass background check.	All branch mgrs and L.O. must register with state and pass background check.
Legal structure	n/a	any form	any form; Foreign Corporation must register with Sec of State	Must be legal entity (I.e Corp, LLC, Partnership); Foreign Corporation must register with Sec of State
Employee/Employer status	W-2 Employee eamings subject to withholding	May hire unlicensed processors as employees (W-2)	Licensed (1099) and unlicensed loan officers (w-2); all must pass background check	Licensed (1099) and unlicensed loan officers (w-2); all must pass background check
Investors	n/a	none-Independent Contractor for Ga Licensees	Broker mortgages; and can close thru whse line if \$150000 bond to the State	Can sell to Institutional and non-institutional investors
*Typical Funding/Closing	n/a	Paid as IC for processing services by Ga Licensees	Broker mortgages, Table Fund (must assign within 24 hours)	Issue rate locks, assign to sec market, set ratesheets, provide table funding, portfolio (service)
*Tyical Compensation	Must be received thru licensed MB or ML	Processing fee paid on 1099 Basis	Fees by migr: points & origination; possible yield spread premium-lender	Mortgagor:points & origination, Life-debt service; Lender:YSP, service release fees or direct to Sec Mkt.

ARTICLE 13-GRMA: STATUTORY DEFINITIONS

- (1) **"Affiliate" or "person affiliated with"** means, when used with reference to a specified person, a person who directly, indirectly, or through one or more intermediaries controls, is controlled by, or is under common control with the person specified. Any beneficial owner of 20 percent or more of the combined voting power of all classes of voting securities of a person or any executive officer, director, trustee, joint venturer, or general partner of a person is an affiliate of such person unless the shareholder, executive officer, director, trustee, joint venturer, or general partner shall prove that he or she in fact does not control, is not controlled by, or is not under common control with such person.
- (2) **"Audited financial statement"** means the product of the examination of financial statements in accordance with generally accepted auditing standards by an independent certified public accountant or by an independent Georgia registered public accountant considered acceptable by the department, which product consists of an opinion on the financial statements indicating their conformity with generally accepted accounting principles.
- (3) **"Commitment" or "commitment agreement"** means a statement by a lender required to be licensed or registered under this article that sets forth the terms and conditions upon which the lender is willing to make a particular mortgage loan to a particular borrower.
- (4) **"Control"** means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.
- (5) **"Executive officer"** means the chief executive officer, the president, the principal financial officer, the principal operating officer, each vice president with responsibility involving policy-making functions for a significant aspect of a person's business, the secretary, the treasurer, or any other person performing similar managerial or supervisory functions with respect to any organization whether incorporated or unincorporated.
- (6) **"Extortionate means"** means the use or the threat of violence or other criminal means to cause harm to the person, reputation of the person, or property of the person.
- (7) **"License"** means a license issued to act as a mortgage lender or mortgage broker.
- (8) **"Lock-in agreement"** means a written agreement whereby a lender or a broker required to be licensed or registered under this article guarantees for a specified number of days or until a specified date the availability of a specified rate of interest for a mortgage loan, a specified formula by which the rate of interest will be determined, or a specific number of discount points if the mortgage loan is approved and closed within the stated period of time.

(9) "**Makes a mortgage loan**" means to advance funds, offer to advance funds, or make a commitment to advance funds to an applicant for a mortgage loan.

(10) "**Misrepresent**" means to make a false statement of a substantive fact. To intentionally engage in any conduct which leads to a false belief which is material to the transaction.

(11) "**Mortgage broker**" means any person who directly or indirectly solicits, processes, places, or negotiates mortgage loans for others, or offers to solicit, process, place, or negotiate mortgage loans for others or who closes mortgage loans which may be in the mortgage broker's own name with funds provided by others and which loans are assigned within 24 hours of the funding of the loans to the mortgage lenders providing the funding of such loans.

(12) "**Mortgage lender**" means any person who directly or indirectly makes, originates, or purchases mortgage loans or who services mortgage loans.

(13) "**Mortgage loan**" means a loan or agreement to extend credit made to a natural person, which loan is secured by a deed to secure debt, security deed, mortgage, security instrument, deed of trust, or other document representing a security interest or lien upon any interest in one-to-four family residential property located in Georgia, regardless of where made, including the renewal or refinancing of any such loan.

(14) "**Person**" means any individual, sole proprietorship, corporation, limited liability company, partnership, trust, or any other group of individuals, however organized.

(15) "**Registrant**" means any person required to register pursuant to Code Sec.7-1-1001,1003.2.

(16) "**Residential property**" means improved real property used or occupied, or intended to be used or occupied, as the principal residence of a natural person. Such term does not include rental property or second homes.

(17) "**Service a mortgage loan**" means the collection or remittance for another or the right to collect or remit for another of payments of principal, interest, trust items such as insurance and taxes, and any other payments pursuant to a mortgage loan.

(18) "**Ultimate equitable owner**" means a natural person who, directly or indirectly, owns or controls an ownership interest in a corporation or any other form of business organization, regardless of whether such natural person owns or controls such ownership interest through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, limited liability companies, partnerships, trusts, joint-stock companies, other entities or devices, or any combination thereof

The Georgia Residential Mortgage Act (Article 13) regulates individuals and business entities providing financing for properties secured by residential properties (**1 to 4 units**) located in the State of Georgia, and is administered by the Georgia Department of Banking and Finance. Residential Properties as defined by statute are those which are 1 to 4 units, and are occupied by a **natural person as their primary residence. Investment properties and second homes are not subject to Article 13.** The regulated licensees are Loan Processor, Mortgage Broker, and Mortgage Lender.

The Georgia Department of Banking and Finance (The Department) reserves the right to deny, suspend, fine, or revoke, an any applicant or licensee who has shown poor moral character, has been convicted of a felony, or has been engaged in any attempt to defraud or mislead the department or the general public. **Any applicant who has been convicted of a felony must have an governmental pardon or the restoration of their civil rights prior to obtaining licensure.**

The Department will require a background check and credit history (within the last 6 months) of all directors, officers, principals, owners, policymakers, and managers. Each proposed branch or office manager must also submit their Biographical information as well as a background check authorization form and a current credit report.

Any credit report filed with the Department containing unresolved tax liens, judgments, bankruptcies, collection items, or charged-off credit items will result in non-licensure. Slow credit or bankruptcies, which have not been dismissed, will require satisfactory explanation. Tax liens, judgments, and bankruptcies must be paid or resolved before any application can be accepted or and reviewed.

Applicants having government supported student loans outstanding must be in “good standing” with the lender on those loans. Delinquent student loans must be brought current, or at least placed in forbearance status by the lender, before a licensee will be issued. Also, where an applicant has been found to be in noncompliance with an order for child support, such action is sufficient grounds for refusal of a license.

Background Check Authorization forms must also be completed for all W-2 employees (Loan Officers, Un-Licensed Loan Processors) to verify their criminal background in addition to public and department records relative to any cease and desist orders within the mortgage industry. **Licensees (MB or ML) serving as employers, are not however, required to submit employees credit reports to the department.**

LOAN OFFICER

The Loan Officer is an unlicensed natural person who solicits, originates, and negotiates loans of behalf of a consumer or a lender, while working as an employee of a licensed Mortgage Broker or Mortgage Lender. The Loan Officer is paid on a W-2 basis and his/her earnings is subject to withholding. The Loan Officer can only work for 1 employer at a time. In order for a natural person to be eligible Loan Officer and exempt from licensure he/she must meet all of the following criteria:

- a. An employee must be employed by just one licensee and work exclusively for that licensee;
- b. An employee may not solicit, process, or place loans for anyone else
- c. An employee's procedures and activities must be supervised by the licensee on a daily basis, and the licensee is responsible for the actions of such employees;
- d. An employee may not be paid or compensated for performance of mortgage activity on a 1099 basis.

All Loan Officers must pass a criminal background check with the Georgia Crime Information Center and must be repeated at the time of employment with subsequent employers. The Background checks should be performed prior to employment and the information should be securely maintained in the loan officer's personnel file.

Upon receipt of information from the Georgia Crime Information Center that is incomplete or that indicates a loan officer has a criminal record in any state other than Georgia, the employer shall submit to the department two complete sets of fingerprints of such person, together with the applicable fees and any other required information. Loan Officers can not be convicted felons, unless they have an governmental pardon and/or restoration of their civil rights.

Employers are also required to examine the Department's public records to determine that an prospective loan officer, or anyone who is not subject to any cease and desist order within the mortgage industry.

LOAN PROCESSOR

The Loan Processor is responsible for the assembling, reviewing, verifying and processing of mortgage data. If licensed, can be an independent contractor (1099-basis) for various GA licensees (MB or ML). Anyone who has the authority to enter, delete, or verify any information on any mortgage loan application form or document is considered an Loan Processor.

All un-licensed Loan Processors must work as an employee of an GA Licensee (MB or ML). While working as an employee, the Loan Processor background information must be submitted to proper law enforcement authorities within 10 business days of initial hire.

The application fee for the Processor license is \$500 and is good for the remainder of the annual period ending 6/30 of the respective licensing year. Applications are to be renewed by April 1, with the renewal fee in the amount of \$500. There is a **\$300 late fee** for renewals received after the renewal date. Any license not renewed prior to June 30, of the respective fiscal year will not be allowed to operate as a processor during upcoming fiscal period beginning July 1.

Initial Loan Processor Licensees are required to have **40 hrs of Pre-Licensing education from an approved course provider**. Loan Processors may claim an exemption to the 40 hour education requirement if they can document **2 years full-time experience** in the mortgage industry and successful completion of **4 hours of State Law** prior to licensure. For applicants required to obtain 40 hrs, 4 hours must be on the State Law and at least 1 hour of the remaining 36 on Mortgage Fraud and Detection. The experience must have been within the 3 years of licensure and the 4 hours of coursework within 1 year. **There is no continuing education requirement for licensed Loan Processors.**

MORTGAGE BROKER

A Mortgage Broker (MB) is licensed to “solicit, process, place or negotiates mortgage loans for others, or closes mortgage loans in their own name and assign to the funding lender within 24 hours (table fund). The MB can be paid directly from the proceeds of the financing of real property and must execute all state and federal required disclosures at the time of the loan application. **The MB can pay compensation on a 1099-Basis to licensed mortgage brokers or loan processors only, while un-licensed employees who are supervised and under their control must be paid on a W-2 basis with their earnings subject to Federal withholding.**

The legal structure of a MB can be an individual or a sole proprietorship. **The net worth requirement is \$50,000 as evidenced by a irrevocable line of credit with an financial institution or or a \$50,000 surety bond** payable to the State of Georgia Department of Banking and Finance. Audited Financial Statements are generally not required by the GDBF. If the mortgage broker is a HUD-Approved Loan Correspondent Broker, and is subject annual audits by HUD, then the department would require the submission of the licensee’s financial statements. Mortgage Brokers can not close a loan on their warehouse line or table fund unless they have evidenced \$150000 (line of credit or surety bond) to the State of Georgia.

The Mortgage Broker can also be a legal entity (i.e. Corporation, Limited liability Corporation, and Partnership) duly authorized under any state of the United States. **Every mortgage broker is required to have a registered agent and a physical address in the State of Georgia.** If the mortgage broker is a Georgia corporation, the registered agent must be same as listed with Georgia Secretary of State. If the entity is not located in the Georgia, then company shall be required to register with the Georgia Secretary of State for **authorization to conduct business by a foreign corporation.** **The application fee is \$500, covering the main office and one branch office** and is good for the remainder of the annual period ending **6/30.** Initial applications are subject to a **\$250 investigation fee** which is non-refundable.

If the MB is a legal entity, each officer, director, or ultimate equitable owner is required to submit a biographical summary, credit report (within last 6 months), fingerprint card, and \$30 processing fee to the Department as well. **The renewal fee of an MB is \$500 and there is a \$300 reactivation (late) fee for renewals received after April 1.** Any license not renewed prior to June 30, of the respective fiscal year will not allowed to operate as a mortgage broker during the upcoming fiscal period beginning July 1.

If a Mortgage Broker originates loans at another location, or it is reasonably construed by the public that they are acting as a mortgage broker in a separate location, the licensee shall be required to obtain a branch office permit. **The branch office permit for a MB is \$350 and the renewal fee is \$350. The Branch Manager is someone who is responsible for all the employees and operations of branch office of Mortgage Broker.** The cost for each additional branch for a mortgage broker is \$350 as well as the renewal fee is \$350. **All Branch Managers of a Mortgage Broker need to have background information, and credit report on file with the department.** Every employee for a mortgage broker must have a background criminal check within 10 days of hire, and have completion of the investigation within 90 days.

Initial Mortgage Broker Licensees are required to have **40 hrs of Pre-Licensing education from an approved course provider.** Mortgage Broker's may claim an exemption to the 40 hour education requirement if they can document **2 years full-time experience** in the mortgage industry and successful completion of **4 hours of State Law** prior to licensure. For applicants required to obtain 40 hrs, 4 hours must be on the State Law and at least 1 hour of the remaining 36 on Mortgage Fraud and Detection. The experience must have been within the 3 years of licensure and the 4 hours of coursework within 1 year. Every Mortgage Broker is required to have 12 hours continuing education beginning the fiscal year 2008.

(b) Brokers. The annual and renewal application and license fee for mortgage brokers shall be five hundred dollars (\$500) which covers the main office and one additional branch office. Any additional branch offices included in the initial application shall be assessed a fee of three hundred fifty (\$350). A fee of three hundred fifty dollars (\$350) will be assessed for each additional office not initially registered, located in Georgia at which mortgage brokering activity is conducted. 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. Application, investigation (initial) and license fee must be received by the Department on or before the first day of April of each year. An application and/or license fee not received on or before the first day of April of each year will be assessed a late fee of three hundred dollars (\$300). An application and/or license fee not received prior to the first day of June of each year cannot be assured of issuance or renewal prior to July 1. Applicants may not conduct a mortgage business without a current license or registration.

(d) Broker Registrants. The annual and renewal application and registration fee for mortgage brokers required to register but not be licensed with the Department shall be five hundred dollars (\$500), due on or before the first day of April of each year.

MORTGAGE LENDER

A Mortgage Lender (ML) is licensed to “make, originate, purchase, or service mortgage loans. Loans can be serviced by a mortgage lender for the life of the loan). The ML can be paid directly from the proceeds of the financing of real property and must execute all state and federal required disclosures at the time of the loan application. The ML can pay compensation on a 1099-Basis to licensed mortgage brokers or loan processors only, while un-licensed employees who are supervised and under their control must be paid on a W-2 basis with their earnings subject to Federal withholding.

The net worth requirement of a Mortgage Lender is \$150,000 as evidenced by a irrevocable line of credit with an financial institution or a \$150,000 surety bond payable to the State of Georgia Department of Banking and Finance. The mortgage lender is not required to submit audited financial statements to the GDBF.

The legal structure of a ML can be an individual or a sole proprietorship. The Mortgage Lender can also be a legal entity (i.e. Corporation, Limited liability Corporation, and Partnership) duly authorized under any state of the United States. **Every mortgage lender is required to have a registered agent and a physical address in the State of Georgia.** If the mortgage lender is a Georgia corporation, the registered agent must be same as listed with Georgia Secretary of State. If the entity is not located in the Georgia, then company shall be required to register with the Georgia Secretary of State for **authorization to conduct business by a foreign coroporation.** **The application fee is \$1000, covering the main office and one branch office** and is good for the remainder of the annual period ending **6/30**. Initial applications are subject to a **\$250 investigation fee** which is non-refundable.

If the ML is a legal entity, each officer, director, or ultimate equitable owner is required to submit a biographical summary, credit report (within last 6 months), fingerprint card, and \$30 processing fee to the Department as well. **The renewal fee of an ML is \$1000 and there is a \$300 reactivation (late) fee for renewals received after April 1.** Any license not renewed

prior to June 30, of the respective fiscal year will not allowed to operate as a mortgage lender during the upcoming fiscal period beginning July 1.

If a Mortgage Lender originates loans at another location, or it is reasonably construed by the public that they are acting as a mortgage lender in a separate location, the licensee shall be required to obtain a branch office permit. **The branch office permit for a ML is \$350 and the renewal fee is \$350. The Branch Manager is someone who is responsible for all the employees and operations of branch office of Mortgage Lender.** The cost for each additional branch for a mortgage broker is \$350 as well as the renewal fee is \$350. All Branch Managers of a Mortgage Lender need to have background information, and credit report on file with the department. Every employee for a mortgage lender must have a background criminal check within 10 days of hire, and have completion of the investigation within 90 days.

There is no pre-licensing requirement for mortgage lenders as well as there is no requirement for continuing education.

a) Lenders. The annual and renewal application and license fee for mortgage lenders shall be one thousand dollars (\$1,000). The initial one thousand dollars (\$1,000) fee covers the main office and one additional branch office. Any additional branch offices included in the initial application shall be assessed a fee of three hundred fifty dollars (\$350). A fee of three hundred fifty dollars (\$350) 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. Application, investigation (initial) and license fee must be received by the Department on or before the first day of April of each year. An application and/or license fee not received on or before the first day of April of each year will be assessed a late fee of three hundred dollars (\$300). An application and/or license fee not received prior to the first day of June of each year cannot be assured of issuance or renewal prior to July 1. Applicants may not conduct a mortgage business without a current license or registration.

(c) Lender Registrants. The annual and renewal application and registration fee for mortgage lenders required to register but not be licensed with the Department shall be one thousand dollars (\$1,000), due on or before the first day of April of each year.

There are many other facets of the statute and rules of Article 13 (GRMA), which are in place to protect the general public as well as insure that all licensees (MB & ML) are serving the general welfare of the citizens of the State of Georgia. Some of these are as follows:

All MB, and ML, must keep and maintain a record of all books, accounts, and records, for a period of 5 years from the date of the final disposition of loan app (eg. 5 years from date of app denial, cancellation or closing). Such books/accounts and records shall be maintained apart and separate from any other business in which such person is involved. The records must be accessible by the department on the site premises or at a pre-authorized location within 5 days of the department's request. Licensees can have offices anywhere in the world.

Every mortgage broker business licensee must maintain a complete Mortgage Brokerage Transaction Journal, which details the name of the applicant, lender, application date, and the disposition of the loan. The journal must be kept current and at the principal place of business. Branch records must be updated no less frequently than every 7 days. LP's required to be licensed shall be required to keep a mortgage transaction journal, but only to the extent they receive information that is required by law.

All licensees must notify the state within 15 days of a change in business address

For an ultimate equitable owner, chief officer, or unlicensed director, of a MB or ML, a background summary, credit report and a completed finger print card must be submitted at the time of application.

An MB license requires a physical place of business in this state if the broker's home state requires one. A personal residence shall be considered a branch for purposes of the Article 13 (GRMA) if any of the following conditions are met: the location is printed on letterheads, business cards, announcements, advertisements, solicitations for business, flyers, brochure.

Any person required to be licensed or registered under article 13 shall provide to each applicant for a mortgage loan prior to accepting an application fee or any third-party fee such as a property appraisal fee, credit report fee, or any other similar fee a disclosure of the fees payable and the conditions under which such fees may be refundable.

MORTGAGE BROKERAGE BUSINESS CONTRACT

(hereinafter called Borrower), employs _____ (hereinafter called Business) to obtain a mortgage loan commitment (hereinafter called Commitment) within _____ days from the date hereof and acknowledges that Business cannot make loans or commitments or guarantee acceptance into specific programs, terms or conditions of any loan. However, Business may issue a rate lock-in or commitment on behalf of a lender to the Borrower.

I. PROPERTY:

Address: _____

Borrower's estimates of fair market value: \$ _____
 Borrower's estimates of the balances on any existing mortgage loan: \$ _____

II. TERMS OF LOAN APPLICATION:

Loan Amount: \$ _____ Interest Rate: _____ % Loan Terms: _____ months
 Monthly Payment: \$ _____
 Loan Type: First Mortgage Second/Junior Mortgage

III. MORTGAGE BROKERAGE FEE

Business, in consideration of the Borrower's agreement to pay a mortgage brokerage fee along with actual costs incurred in connection with this loan, agrees to exert its best efforts to obtain a bona fide mortgage loan commitment in accordance with the terms (or better terms) and conditions set forth herein. The Business and its associates or employees shall be held harmless from any liability resulting from failure to obtain said loan commitment. Borrower hereby agrees to pay the actual costs as estimated herein and Borrower agrees to pay Business a mortgage brokerage fee of \$ _____ for obtaining the commitment. Additionally, Borrower acknowledges that Business may receive additional compensation from Lender based on the mortgage program and terms Borrower has engaged Business to obtain in securing the commitment and that Business will receive a sum in range of _____ % to _____ % of the total loan amount. This additional compensation, the exact amount of which will be disclosed at the time of closing, is part of total brokerage fee due Business. In no event will the brokerage fee, additional compensation included, exceed the maximum fee permitted by the applicable state law.

IV. APPLICATION FEE

An application fee is charged for the initial cost of processing, verifying and preparing your loan package to submit to a lender for commitment, and will be credited against the amount the Borrower owes if closing occurs. This fee is Refundable Non-refundable Applicable to your closing costs at the time of the settlement of your loan. Business acknowledges the receipt of \$ _____ as an Application Fee.

V. DEPOSIT

Business acknowledge the deposit of \$ _____ will be used toward the costs incurred by the Business, or by third party, on behalf of Borrower, to pay expenses necessary to secure the mortgage loan commitment. Actual costs incurred by the Business for items listed on Good Faith Estimate are non-refundable, even if the mortgage loan commitment is not received. In the event of default by the Borrower, Business is authorized to immediately disburse from the deposit all sums then due Business or any third party. The disbursement is not a waiver of any other sums due Business by Borrower, as more fully enumerated herein. Money retained by Business as the deposit shall be returned to the Borrower, within 60 days of disposition of the loan, in accordance with the following:

- (a) the services for which the money is expended are not performed.
- (b) the services for which the money is expended are performed, but there is an excess amount that would be paid as brokerage fee but this commitment is not obtained.

V. SERVICES TO BE PROVIDED BY MORTGAGE BROKERAGE BUSINESS

In consideration for Business earning its fee, the services to be provided by Business are assembling information, compiling file, and completing credit application for borrower(s). Processing the application file includes verifying of information received and ordering vendor reports. Preparation and submission of completed file for conditional loan commitment between borrower(s) and lender. Incidental services necessary to obtain commitment including courier, express mail, photographs, telephone toll charges.

Applicant _____ Date _____ Mortgage Brokerage Business _____ License # _____

Applicant _____ Date _____ By _____ Date _____

Every Mortgage Lender, and Mortgage Broker who closes mortgage loans in the broker's own name with funds provided by others and which loans are assigned within 24 hours of the funding of the loan to the funding lender providing the funding of such loans (i.e. table funds), must give a disclosure in writing to each applicant for a mortgage loan. The foreclosure disclosure shall be made at or before the time of settlement. The applicant is required to sign the disclosure and the lender or broker shall keep a copy in their files for 5 years. The following language below must be in at least ten-point bold-faced type

Foreclosure Disclosure

As required per "O.C.G.A. Section 7-1-1014(3)

Loan Number:
Property Address:
Borrower Name:

"O.C.G.A. Section 7-1-1014(3) requires that we inform you that if you fail to meet any condition or term of the documents that you sign in connection with obtaining a mortgage loan you may lose the property that serves as collateral for the mortgage loan through foreclosure."

Borrower Signature/Date:

Co-Borrower Signature/Date:

HIGHLIGHTS OF THE GEORGIA RESIDENTIAL MORTGAGE ACT

ARTICLE 13 - OCGA

Prohibited advertising; record requirements.

The department regulates and governs the advertising of mortgage loans, including without limitation the requirements listed below. All licensees under Article 13 are required to keep a record of samples of each of its advertisements, including commercial scripts of each radio or television broadcast, for examination by the department for a period of **5 years** after the date of publication or broadcast. The following advertising activities are prohibited:

- *Advertising in a manner that is misleading, false, or deceptive. Indicating an applicant will have unqualified access to credit without disclosing the limitations on the availability.*
- *Advertising without the following information: name (licensee or registrant), license number, and office address of such licensee or registrant;*
- *Advertising without the words “Georgia Residential Mortgage Licensee”*
 - *Advertisers licensed in multiple states must provide a listing of Georgia as a state in which they are licensed;*
- *Advertising in any manner so as to indicate or imply that its interest rates or charges for loans are in any way “recommended,” “approved,” “set,” or “established” by the state or this article;*
- *Falsely advertising or misusing names indicating a federal agency.*

80-11-1-.02 Advertising Requirements.

(c) All advertisements for mortgage loans disseminated in this state by persons required to be licensed or registered under O.C.G.A. Title 7, Article 13 shall contain the name, license number, and an office address of the licensee or registrant advertising the mortgage loan, which name, address, and license number shall conform with the name, license number and office address on record with the Department of Banking and Finance.

(d) All advertisements disseminated in this state by persons required to be licensed under O.C.G.A. Title 7, Article 13 in any media, whether print or electronic, shall contain the words “Georgia Residential Mortgage Licensee” or, if an entity is licensed in more than one state, the licensee’s advertisement may list Georgia as a state in which the licensee is licensed.

80-11-2-.02 Minimum Requirements for Books and Records.

(1) Any person required to be licensed or registered under Article 13 ("licensee" or "registrant") must maintain the following books, accounts and records:

- (a) Copies of all disclosure documents required by Rule 80-11-1-.01;

(b) Samples of advertisements as required by Rule 80-11-1-.02;

(c) Copies of all written complaints by customers and written records of disposition;

(d) Copies of examination reports prepared by any agency, division or corporate instrumentality of the United States, the State of Georgia or any other state, which reports pertain to the mortgage brokerage and/or lending business of the licensee or registrant and are not prohibited from being disclosed to the Department of Banking and Finance by state or federal law;

(e) Copies of reports required to be prepared and/or submitted by the licensee or registrant to any agency, division, or corporate instrumentality of the United States, the State of Georgia or any other state, which reports pertain to the mortgage brokerage and/or lending business of the licensee or registrant and are not prohibited from being disclosed to the Department of Banking and Finance by state or federal law;

(f) **Copies of all federal withholding tax forms (W-2's) and 1099 forms filed by the licensee or registrant with the Internal Revenue Service on behalf of individuals employed by the licensee or registrant** in its mortgage brokerage and/or lending business or on behalf of individuals acting as independent contractors in the mortgage brokerage and/or lending business of the licensee or registrant;

(g) *A general ledger and subsidiary records sufficient to produce, when requested by the department, an accurate monthly statement of assets and liabilities and a cumulative profit and loss statement for the current operating year.*

(h) *All checkbooks, bank statements, deposit slips and canceled checks which pertain to the mortgage brokerage and/or lending business of the licensee or registrant;*

(i) Supporting documentation for all expenses and fees paid by the mortgage broker on behalf of the customer, which documentation indicates the amount paid and the date paid;

(j) Copies of all credit report bills received from all credit reporting agencies for the most recent five year period;

(k) **Documentation to indicate a consumer had a choice of attorney, if attorneys' fees are intended to be excluded from a points and fees calculation under the Georgia Fair Lending Act;**

(l) **An indication of whether each loan has points and fees of 5% or more, as calculated under the Georgia Fair Lending Act, and**

(m) **Documentation to support the source and purpose for each receipt of monies in any form in an amount greater than \$100 and documentation to identify the recipient and purpose of each payment of monies** in any form in an amount greater than \$100 by the licensee or registrant in its mortgage brokerage and/or lending business in order that the receipts may be reconciled to bank deposits and to books of the licensee or registrant.

(2) Failure to maintain the books, accounts and records required under paragraph (1) above may result in suspension of the license or registration or other appropriate administrative action and will subject the licensee or registrant to fines in accordance with regulations prescribed by the department.

Authority Ga. L. 1993, p. 543; O.C.G.A. §7-1-61; §7-1-1012.

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

(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 of the broker or lender 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.

Authority Ga. L. 1993, p. 543; O.C.G.A. § 7-1-1012.

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

(1) Any person who is acting as a mortgage broker and who is required to be licensed under O.C.G.A. Title 7, Article 13, whether as a broker or a lender ("licensee"), shall maintain a loan file for each mortgage loan transaction. The files shall be maintained in an alphabetical or numerical sequence in the principal place of business or in each branch office where mortgage loans are originated, provided that the branch office is indicated on the licensee's initial written application for licensure or written amendment thereto.

(2) Each loan file shall contain the following:

(a) Copy of the signed mortgage loan application if received by the licensee;

(b) Copy of credit report if the credit report is pulled or ordered by the licensee;

(c) Copy of the appraisal and the order for such appraisal if the appraisal is ordered by the licensee;

(d) Copy of signed closing statement (HUD-1) or documentation of denial or cancellation of loan application;

(e) Copies of the disclosure documents required by Rule 80-11-1-.01; and

(f) Copies of all contracts, letters, notes and memos regarding the customer, including but not limited to lock-in agreements and commitment agreements.

(3) Failure to maintain files and required documentation (incidental and isolated clerical errors or omissions shall not be considered a violation) may be grounds for suspension of the license or other appropriate administrative action and will subject the licensee to fines in accordance with regulations prescribed by the Department.

Authority Ga. L. 1993, p. 543.

80-11-1-.01 Disclosure Requirements.

(1) Written disclosure required before acceptance of fees. Any person required to be licensed or registered under Article 13 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated ("Article 13") must make the following disclosures in writing to the applicant prior to accepting an application fee, property appraisal fee, credit report fee, or any other third-party fee from an applicant for a residential mortgage loan.

(a) The amount of the application fee, a good faith estimate of the credit report fee, the property appraisal fee and/or any other third-party fees;

(b) Whether all or any part of such fees or charges is refundable prior to settlement of the mortgage loan, and the terms and conditions for obtaining a refund if all or any part of the fees or charges is refundable;

(c) The specific services which will be provided or performed for the application fee;

(d) In cases where the fees are being accepted by a mortgage lender or mortgage broker that such lender or broker cannot guarantee approval of the loan application or acceptance into a particular loan program. Further, lender or broker may not use the terms "closing" or "settlement" to refer to a transaction unless the transaction meets the definition of settlement in paragraph (2) of this rule.

(2) For purposes of this Rule, the term "settlement" or "closing" means the process of executing legally binding documents regarding a lien on residential property and the disbursement of funds necessary to effect the transaction. Where a federally required right of rescission applies to a transaction, the settlement or closing date will be the date the binding documents are signed, not the disbursement date.

(3) Some or all of the disclosures required by paragraph (1) of this Rule may appear on forms used to comply with otherwise applicable state or federal laws.

(4) The disclosures required in paragraph (1) of this Rule shall be acknowledged in writing by the applicant and a copy of the acknowledgment maintained by the lender or broker required to make the disclosure, and a copy of the acknowledgment shall be given to the applicant. In instances of mail applications, the disclosures required by paragraph (1) must be included in the mail application package with a request that a signed acknowledgment form be returned to the mortgage broker or lender required to make the disclosure. A copy of this request shall be kept by the mortgage broker or lender. In instances of applications taken by telephone, the disclosures required by paragraph (1) must be mailed or delivered to the applicant with a request that a signed acknowledgment form be returned to the mortgage broker or lender required to make the disclosure. A copy of this request shall be kept by the mortgage broker or lender.

(5) For purposes of paragraph (1) of this Rule, "application fee" means any fee advanced prior to settlement by the applicant to the mortgage broker or lender in connection with an application for a mortgage loan, including any charge for soliciting, processing, placing or negotiating a mortgage loan. The term does not include payments to be remitted to third party service providers, such as appraisal fees or fees for credit reports.

(6) Good Faith Estimate to be provided by broker. Every broker, including every home improvement dealer and manufactured home dealer required to be licensed or registered under Article 13 shall provide applicants for mortgage loans the good faith estimate disclosure as required below.

(a) Every broker shall disclose in writing to the applicant for a mortgage loan a good faith estimate, also required by federal law, of the costs the applicant can reasonably expect to pay in obtaining a mortgage loan, whether all or any part of these costs is refundable prior to settlement of the mortgage loan, and the terms and conditions under which all or any part of these costs is refundable. The good faith estimate of costs shall be mailed or delivered to the applicant within three business days after the application is received. If a mortgage broker acting as an exclusive agent of the lender receives the application, either the lender or the mortgage broker shall provide the good faith estimate. In the event that an application is received by a mortgage broker who is not an exclusive agent of the lender, the mortgage broker must provide a good faith estimate within three days of receiving a loan application based on his or her knowledge of the range of costs. An "exclusive agent" for the purposes of Article 13 shall mean a broker who represents only one lender and no others.

(b) The disclosures required in paragraph (6) of this Rule shall be acknowledged in writing by the applicant and a copy of the acknowledgment maintained by the broker, or lender if the broker is acting as an exclusive agent of the lender. A copy of such acknowledgment shall be given to the applicant. In instances of mail applications and applications taken by telephone or electronically, the broker, or lender if the broker is acting as an exclusive agent of the lender, shall deliver or mail to the applicant together with the required disclosures a request that a signed acknowledgment form be returned to the mortgage broker, or lender as appropriate. A copy of this request shall be kept by the mortgage broker or lender who delivers it.

(c) Some or all of the disclosures required in paragraph (6) of this Rule may appear on forms used to comply with otherwise applicable state or federal laws.

(7) Good Faith Estimate to be provided by Lender. Except as provided in subsection (d) of this Rule, every lender required to be licensed or registered under Article 13 shall provide applicants for mortgage loans the good faith estimate disclosure as required below.

(a) Every lender shall disclose in writing to the applicant for a mortgage loan a good faith estimate, also required by federal law, of the costs the applicant can reasonably expect to pay in obtaining a mortgage loan, whether all or any part of these costs is refundable prior to settlement of the mortgage loan, and the terms and conditions under which all or any part of these costs is refundable. The good faith estimate of costs shall be mailed or delivered to the applicant within three business days after the application is received.

(b) The disclosures required in paragraph 7 of this Rule shall be acknowledged in writing by the applicant, maintained by the lender required to make the disclosures, and a copy of such acknowledgment shall be given to the applicant. In instances of mail applications and applications taken by telephone or electronically, the lender shall deliver or mail to the applicant together with the required disclosures a request that a signed acknowledgment form be returned to the mortgage lender. A copy of this request shall be kept by the mortgage lender.

(c) Some or all of the disclosures required in paragraph (7) of this Rule may appear on forms used to comply with otherwise applicable state or federal laws.

(d) In cases where the broker provides a good faith estimate that includes the costs of the broker and the lender, the lender would not be required to issue a good faith estimate as dictated by paragraph (7) of this Rule, provided the broker's good faith estimate is an accurate estimate of the lender's costs.

7-1-1001.Exemption for certain persons and entities; registration requirements.

The following persons shall not be required to obtain a mortgage broker or mortgage lender license and shall not be subject to the provisions of this article but may be subject to registration or notification requirements, unless otherwise provided by this article are:

(1) Any lender authorized to engage in business as a bank, credit card bank, savings institution, building and loan association, or credit union under the laws of the United States, any state or territory of the United States, or the District of Columbia, the deposits of which are federally insured;

(2) Any wholly owned subsidiary of any lender described in paragraph (1) of this Code section; provided, however, such subsidiary shall be subject to the filing of a notification statement in order to facilitate the department's handling of consumer inquiries. Such requirements are contained in Code Section 7-1-1003.4. Any subsidiary which fails to file the notification statement or keep the information current will immediately be subject to the registration requirements of this article. In addition, any subsidiary that violates any applicable law of this article may be subject to a cease and desist order as provided for in Code Section 7-1-1018;

(2.1) Any wholly owned subsidiary of any bank holding company; provided, however, such subsidiary shall be subject to registration requirements in order to facilitate the department's handling of consumer inquiries. Such requirements are contained in Code Section 7-1-1003.3;

(3) An attorney at law licensed to practice law in Georgia who is not principally engaged in negotiating mortgage loans when such attorney renders services in the course of his or her practice as an attorney at law;

(4) A real estate broker or real estate salesperson not actively engaged in the business of negotiating mortgage loans; however, a real estate broker or real estate salesperson who receives any fee, commission, kickback, rebate,

or other payment for directly or indirectly negotiating, placing, or finding a mortgage for others shall not be exempt from the provisions of this article;

(5) Any person performing any act relating to mortgage loans under order of any court;

(6) Any natural person or the estate of or trust created by a natural person making a mortgage loan with his or her own funds for his or her own investment, including those natural persons or the estates of or trusts created by such natural persons who make a purchase money mortgage for financing sales of their own property;

(7) The United States of America, the State of Georgia or any other state, and any agency, division, or corporate instrumentality of any governmental entity, including without limitation: the Georgia Housing and Finance Authority, the Georgia Development Authority, the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Government National Mortgage Association (GNMA), the United States Department of Housing and Urban Development (HUD), the Federal Housing Administration (FHA), the Department of Veterans Affairs (VA), the Farmers Home Administration (FmHA), and the Farm Credit Administration and its chartered agricultural credit associations;

(8) Any person who makes a mortgage loan to an employee of such person as an employment benefit;

(9) Any licensee under Chapter 3 of this title, the "Georgia Industrial Loan Act," provided that any mortgage loan made by such licensee is for \$3,000.00 or less;

(10) Nonprofit corporations making mortgage loans to promote home ownership or improvements for the disadvantaged;

(11) A natural person employed by a licensed mortgage broker, a licensed mortgage lender, or any person exempted from the licensing requirements of this article when acting within the scope of employment and under the supervision of the licensee or exempted person as an employee and not as an independent contractor. To be exempt, a natural person must be employed by only one such employer and must be at all times eligible for employment in compliance with the provisions and prohibitions of Code Section 7-1-1004;

(12) Any person who purchases mortgage loans from a mortgage broker or mortgage lender solely as an investment and who is not in the business of brokering, making, purchasing, or servicing mortgage loans; or

(13) Any natural person who makes five or fewer mortgage loans in any one calendar year. A person other than a natural person who makes five or fewer mortgage loans in any one calendar year shall not be exempt from the licensing requirements of this article unless such person applies for and is granted an exemption by the department in accordance with regulations promulgated by the department.

80-5-1-.02 FEES FOR MORTGAGE LENDERS AND BROKERS

(e) All license, investigation, registration, supervision and late fees must be paid prior to renewal of the annual license or registration, reinstatement of a license or registration, reapplication for a license or registration or any other approval from the Department.

(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(d).

(g) Applicants for approval to acquire directly or indirectly twenty-five percent (25%) or more of the voting shares of a corporation or twenty-five (25%) percent 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 a subsequent additional office of a licensee not included in the initial application shall be accompanied by a nonrefundable fee of three hundred fifty dollar (\$350), as provided in O.C.G.A. §7-1-1006. A fee of three hundred fifty dollars (\$350) will be assessed for any additional branch offices beyond the one included in the initial application.

(i) No fee is assessed for a wholly owned subsidiary of a lender who files and keeps current a proper notification statement.

(j) The fee for initial application for approval by the Department for a school or education provider shall be five hundred dollars (\$500). An application for approval will be on a form provided by the Department at its website. The fee is nonrefundable. The fee for annual renewal of such approval is two hundred fifty dollars (\$250).

(k) The fee for name permission application investigations shall be one hundred fifty dollars (\$150). The fee is non-refundable.

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

Authority Ga. L. 1974, pp. 705, 732, 733, 921; Ga. L. 1976, Act 762, p. 168; 1990, p. 739; 1993, p. 543; O.C.G.A. §7-1-41; §7-1-61; §7-1-685; O.C.G.A. §7-1-701; O.C.G.A. §7-1-703; O.C.G.A. §7-1-716; O.C.G.A. §7-1-721.

80-5-1-.04 Levy, Collection, Remittance and Refunds of Georgia Residential Mortgage Act Per Loan Fee.

(a) Each borrower who obtains a mortgage loan as defined in Article 13 shall pay to the department a per loan fee of \$6.50. **The \$6.50 fee will be due if the loan is a residential mortgage loan as defined in the Georgia Residential Mortgage Act, and if a security deed, a modification of a security deed, or other form or modification of a security interest is recorded.** A change to a security instrument made solely for the purpose of correcting a clerical error will not be subject to a \$6.50 fee. Any person who closes mortgage loans that are subject to regulation under Article 13, regardless of whether said person is required to be licensed or registered under Article 13, shall act as collecting agent for payment to the department of said per loan fee for each mortgage loan closed by that person on and after January 1, 1994. A mortgage loan shall be deemed to have been closed by a person if such person is indicated as the secured party on the security deed or any other loan document that establishes a lien on the residential real estate taken as collateral for the mortgage loan.

(b) The fees payable under the provisions of subsection (a) shall be payable to the department by the collecting agent, who is the person responsible for remittance of such fees on a semiannual basis. More specifically, such fees for the period January 1 through June 30 of each year shall be remitted to the department no later than the first business day of September of each year and such fees for the period July 1 through December 31 of each year shall be remitted to the department no later than the first business day of March of each year. The department may mail a fee statement form to persons making residential mortgage loans in Georgia. Whether or not a form is received, a fee statement indicating the number of mortgage loans closed during the applicable reporting period by the person remitting the payment shall be enclosed with the payment. Such fee statement shall be in a format substantially similar to the following:

80-5-1-.05 Other Charges and Fees.

(5) Each person required to submit fingerprint cards to the department for any reason, including but not limited to: initial application, change in control, addition of new officer or director or person managing the business, or expanded background check of an employee, shall submit to the department a money order or certified check for \$30 payable to the department, to cover two (2) sets of fingerprints for each individual background check.

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

(2) An applicant for a broker's license must have a physical place of business in this state if the broker's home state requires one.

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

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

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

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

(a) It is a franchise arrangement;

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

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

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

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

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

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

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

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

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

Authority O.C.G.A. §7-1-61; O.C.G.A. §7-1-1012.

(a) Every lender, and every broker who closes mortgage loans in the broker's own name with funds provided by others and which loans are assigned within 24 hours of the funding of the loan to the mortgage lender providing the funding of such loans (i.e. table funding), required to be licensed or registered under Article 13 shall disclose in writing to each applicant for a mortgage loan that failure to meet every condition of the mortgage loan may result in the loss of the applicant's property through foreclosure. The disclosure shall be made at or before the time of settlement. The disclosure shall include the following language in at least ten-point bold-faced type:

"O.C.G.A. Section 71-1014(3) requires that we inform you that if you fail to meet any condition or term of the documents that you sign in connection with obtaining a mortgage loan you may lose the property that serves as collateral for the mortgage loan through foreclosure."

(b) The applicant shall be required to sign the disclosure and the lender or broker, as applicable, shall keep a copy of the signed disclosure.

(c) This disclosure requirement may be satisfied by a substantially similar disclosure as required by federal law.

Authority Ga. L. 1974, p. 733; Ga. L. 1993, p. 543; O.C.G.A. §7-61; §7-1-261.

80-11-1-.04 Branch Managers.

(1) A "branch manager" shall mean a person who supervises daily activities in Georgia of a licensee, whether at a main or branch location, and regardless of job title.

(2) No branch manager shall be permitted to manage a location in Georgia without being approved by the department. 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. Rule 80-11-4-.03. 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.

(3) The department shall be authorized to do 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.

(4) The licensee must conduct an initial Georgia Crime Information Center (GCIC) background check on each branch manager and send it to the department together with a credit report run within 30 days of submission of an application. In the event that the background investigation of the branch manager by the licensee indicates that the information is incomplete or that the proposed manager has a criminal record in any state other than Georgia ("multi-source offender"), the applicant must submit two sets of fingerprints, along with a money order or certified check payable to the department for \$30.00 in order for the department to administer the expanded background check as required by Code Section 7-1-1004 (f).

Authority O.C.G.A. §7-1-61; §7-1-1006; §7-1-1012.

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

(1) As required by O.C.G.A. §7-1-1004(f), applicants and licensees must complete background checks on all covered employees. Covered employees include those employees who physically work in the state of Georgia and who may enter, delete or verify any information on any mortgage loan application form or document. Employees of a licensee or applicant who are not involved in the mortgage loan business are not covered employees. **Background checks on all covered employees must be completed and found satisfactory by the applicant or licensee within ninety (90) days of the initial date of hire.** Employers should submit background information to the proper law enforcement authorities promptly upon initial hire in order to meet the ninety (90) day requirement. **The Department will expect employers to submit such information to such authorities within ten (10) business days of initial hire.**

(2) As used in O.C.G.A. §7-1-1004(e), the term “mortgage loan document” 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 would also include 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) Applicant’s and licensee’s requests for background checks are handled by the Georgia Crime Information Center (GCIC) following their rules and regulations (see also O.C.G.A. §35-3-34). Background checks must be full GCIC checks following that agency’s rules and regulations and must not have any time period limitations or restrictions in the search criteria. Any fees charged by GCIC for processing background checks must be paid by the applicant or licensee. The background checks may be arranged for through a local law enforcement office, so long as the background check is done by GCIC.

(a) If the information from the background check is unclear or incomplete, appears to address or makes reference to a felony conviction, or indicates that the employee has a criminal record in any state other than Georgia (“multi-source offender”), the applicant or licensee must immediately submit two sets of fingerprints of the person, along with the applicable processing fee and any additional information the Department may require to complete an expanded background investigation. A money order or certified check for thirty dollars (\$30) made payable to the Department shall be submitted with the cards in order to have the cards processed. Applicant or licensee shall discuss the Georgia Residential Mortgage Act’s legal requirements for employment with the subject employee.

(b) An employee may remain employed by the applicant or licensee pending results of a fingerprint follow up investigation if no felony convictions appear on the GCIC report. If the employee is found to have disqualifying conviction data according to O.C.G.A. §7-1-1004(d), or if the applicant or licensee knows that a disqualifying conviction is present, the applicant or licensee must immediately take action to comply with O.C.G.A. §7-1-1004.

Authority O.C.G.A. §7-1-61; §7-1-1012.

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

(1) Any person 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 prior to said books, accounts, and records being maintained in any place other than the designated principal place of business. Such notification shall be submitted to the Department of Banking and Finance, 2990 Brandywine Road, Suite 200, Atlanta, Georgia 30341.

(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(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(a), (i), (k) and (l) and by Rule 80-11-2-.04 must be maintained and kept complete for a period of five (5) years from the final disposition of the loan application to which the records relate (e.g. five (5) years from date application denied or cancelled or five years from date mortgage loan closed).

(5) Any books, accounts or records required to be maintained by Chapter 80-11-2 of the Rules of the Department of Banking and Finance may be maintained in their original form, on microfiche or other electronic media, provided: (i) that the records shall be made available to the department as provided in this Rule; and (ii) at the request of the department, the records shall be printed on paper for inspection or examination.

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

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

Authority Ga. L. 1993, p. 543; O.C.G.A. §7-1-61; §7-1-1012.

RESIDENTIAL MORTGAGE BROKERS AND LENDERS CHAPTER 80-11-3 ADMINISTRATIVE FINES AND PENALTIES

80-11-3-.01 Administrative Fines.

(1) As authorized under Article 13 of Chapter 1 of Title 7, O.C.G.A. §7-1-1018(g) and §7-1-1005(d), 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 O.C.G.A. Title 7, Article 13 ("licensee" or "registrant"). The Department, at its sole discretion, may waive or modify a fine based upon the gravity of the violation, history of previous violations, and such other facts and circumstances as have contributed to the violation.

(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) All fines 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(d).

(4) **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.

(5) **Relocation of Office.** Any 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 twenty-five percent **(25%) or more of the capital stock** or a twenty-five percent (25%) or more ownership of a 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 five hundred dollars **(\$500)** 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, 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 licensee or registrant who hires or retains an employee who is a felon as described in O.C.G.A. §7-1-1004(d), which employee has not complied with the remedies provided for in O.C.G.A. §7-1-1004(d), may be **fined five thousand dollars (\$5,000) per employee** found to be in violation of such provision and their license or registration will be subject to revocation or suspension.

(10) **Hiring Persons Otherwise Disqualified from Conducting a Mortgage Business.** Any licensee or registrant who employs any other person against whom a final cease and desist order has been issued within the preceding three (3) 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 **has been revoked within three (3) years of the date such person was hired** pursuant to O.C.G.A. §7-1-1004(g) shall be subject to a fine of one thousand dollars **(\$1,000) per such employee** and their 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) **Maintenance of Loan Files.** Any person who is required to be licensed under O.C.G.A. Title 7, 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.

(13) **Payment of \$6.50 fees.** Any person who acts as the collecting agent at a closing of a mortgage loan transaction subject to the Georgia Residential Mortgage Act, is liable for payment of the \$6.50 fee to the Department, pursuant to O.C.G.A. §7-1-1011 and Rule 80-5-1-.04. Any remittance of the \$6.50 fees that is received after it is due shall subject the person to a late fee of one thousand dollars **(\$1,000)** for each due date missed. If the Department finds that a person has not, through negligence or otherwise, submitted \$6.50 fees within six months of the due date, it may impose an additional one thousand dollars **(\$1,000)** fine for failure to remit fees. Repeated failure to submit \$6.50 fees may be grounds for revocation of license.

(14) Repealed. Reserved.

(15) Reporting of

Violation of Law or Discharge of Employee for Same. Any person required to be licensed or registered under O.C.G.A. Title 7, Article 13 as a mortgage lender or broker, who fails to report prohibited acts or the discharge of employees for dishonest acts, pursuant to 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, 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. Misrepresentations as defined in O.C.G.A. §7-1-1000 are subject to fine and include but are not limited to: (i) inaccurate or false identification of applicant's employer; (ii) significant discrepancy between applicant's stated income and actual income; (iii) omission of a loan to applicant, listed on loan application, which was closed through same lender or broker; (iv) false or materially overstated information regarding depository accounts; (v) false or altered credit report; and (vi) 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) Education and Experience Requirements. Any licensee subject to the experience and education requirements who fails to meet such requirements shall be fined one thousand dollars (\$1,000) for operating a mortgage business without meeting licensing standards, and their license or registration will be subject to revocation or suspension.

(19) Failure to Fund. The GRMA in 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.

(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. §7-1-1016 or the advertising requirements of department Rule 80-11-1-.02 shall be subject to a fine of five hundred dollars (\$500) for each violation of law or rule.

(21) Failure to Submit to Exam. 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 dollars (\$5,000) fine**. Refusal shall be determined according to Department examination policies and procedures, but shall require at least two attempts to schedule an exam.

(22) Repealed. Reserved.

(23) Background Checks. Any licensee who fails to perform background checks on covered employees in accordance with the provisions of O.C.G.A. §7-1-1004(d), (e) and (f) shall be subject to a **fine of one thousand dollars (\$1,000)** for each employee on whom the required background check was not conducted.

(24) Change in Officers. Any licensee who fails to notify the Department of a change in principals of the company without the proper approval of the Department 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, Article 13 as a mortgage broker or mortgage lender who violates any provision of Chapter 6A of Article 13, the Georgia Fair

Lending Act, shall be subject to a fine of **one thousand dollars (\$1,000) per violation** or transaction that is in violation and their license will be subject to revocation or suspension.

(26) Consumer Complaints. Any licensee or registrant who fails to respond to a consumer complaint or **fails to respond** to the Department within the time periods specified in the Department's correspondence to such person shall be subject to a fine of one thousand dollars **(\$1,000) for each occurrence**. Repeated failure to properly respond to consumer complaints may result in revocation of license.

(27) Failure to Perform Timely Background Checks. If the ten (10) business day filing requirement for submission of background information to the proper law enforcement authorities is not met and the employee is found to be disqualified under O.C.G.A. §7-1-1004, the employer shall be subject to a one thousand dollars (\$1,000) fine.

Authority O.C.G.A. §7-1-61; §7-1-1012.

80-11-4-.01 Initial Experience and Education Requirements; Continuing Education.

(1) Subject to the exceptions below, any mortgage broker license issued, reinstated or renewed after July 1, 2000 to an applicant, shall be subject to the requirements for experience or education. Such requirements shall apply to natural person applicants, or if to other entities or persons, to the operating manager who administers the operations in this state (collectively, "applicant").

(a) Any mortgage broker license issued to an applicant prior to July 1, 2000, which license remains continuously valid without interruption until renewed on July 1, 2001, shall be subject to either one year of verifiable experience or applicant must meet the education requirements in this rule.

(a) Applicant must complete two (2) years of verifiable experience working full time for a licensed mortgage broker or lender.

(a) Applicant must complete a minimum of forty (40) course hours of prescribed courses from a Department approved provider of mortgage training courses. Courses will deal with obtaining a basic understanding of technical mortgage terms, elements of the mortgage brokering process, federal law, applications and required documentation, and shall include a minimum of four (4) course hours on Georgia law, rules and regulations. At least one of the remaining thirty six (36) hours shall be focused on fraud detection and prevention in the mortgage industry.

(b) Applicant must submit proof of completion of the required education courses in the form of a certificate of completion issued by a Department approved provider of mortgage education courses. This requirement may be verified by the Department directly with the provider. The Department will make a list of such providers available on its website.

(6) Experience requirements must have been completed within the three (3) calendar year period immediately prior to the date of approval of the license. Initial education requirements must have been completed within the one (1) calendar year period prior to the date of approval.

(7) Continuing Education. Applicants for renewal of a broker's license shall meet the following continuing education requirements.

(a) Applicant must complete on an annual basis and prior to April 1 each year a minimum of twelve (12) hours of continuing education dealing with elements of the mortgage brokering process, federal law, federal rules and regulations, Georgia law, Georgia rules and regulations, applications and required documentation, fraud, ethics or other topics pertinent to the operation of a mortgage brokering business in Georgia. At least one (1) hour shall be concentrated on fraud detection and prevention.

(b) Except as provided in this rule, continuing education must be completed with a Department approved provider of mortgage education classes.

(c) Seminars, courses or classes sponsored and approved by mortgage-related state and federal regulatory agencies, the National Association of Mortgage Brokers (NAMB), state and federal regulated lenders and their affiliates or professional

associations, all of which must be recognized by the Department as proper providers of education requirements (“approved providers”). Requirements may be satisfied at monthly association meetings, conventions, seminars or through electronic means provided the subject meets the requirements of this Rule. For purposes of continuing education, instructors and speakers at seminars, conventions or classes sponsored by approved providers will not be required to seek Department approval as approved providers of mortgage education classes. Education providers shall assign a certificate number to each attendee of a seminar, course or class. In state providers must keep lists of attendees for at least two (2) years.

(d) Each licensed broker must maintain a listing of the courses completed or seminars attended, the date attended, the name of the instructor or speaker, the name of the sponsoring association, the course agenda and the credit hours earned for each course or seminar. Credit hours may not be earned or approved in less than one (1) hour increments. Such information may be requested as part of the renewal application.

(e) The Department will not be required to verify that each applicant has completed the required Department continuing education hours prior to issuance of a renewal license. However, the Department may at any time and at its discretion select any number of renewal applications to verify that the continuing education requirements have been met. Verification of continuing education hours may be performed as a part of the examination process. Licensees must maintain documentation for five (5) years that verifies the continuing education hours attained. The Department may request proof of attendance or verification from the applicant, sponsor, instructor or speaker.

(f) The Department may at its discretion accept continuing education hours completed after April 1, but prior to June 30 of each year as part of the license renewal requirement. However, licensees/applicants that fail to attain at least twelve (12) continuing education hours prior to April 1 of each year will be subject to a one thousand dollars (\$1,000) fine.

(g) Upon submitting an application to renew license, failure to complete twelve (12) continuing education hours before April 1 together with failure to complete the hours by June 30 with payment of the one thousand dollars (\$1,000) fine shall result in inability to renew the license, or other administrative action.

(h) For purposes of continuing education requirements “applicant” shall mean an individual owner of the licensee, or a person designated and employed by the licensee as the primary supervisor or manager of the licensee’s mortgage business. The intent of the rule is that the continuing education must be obtained by a person who directs the affairs of the mortgage business.

(i) Newly licensed brokers who obtain their license after April 1 but before December 31 of any year will be required to have twelve (12) hours of continuing education credits in order to qualify to renew their license for the next license renewal period. Provisions in subsection (f) and (g) of this rule also apply to such newly licensed brokers.

Authority O.C.G.A. ' 7-1-1012; ' 7-1-1004.

Georgia has enacted the Georgia Fair Lending Act which regulates abusive practices by lenders to consumers. This act defines prohibited acts by lenders when making high cost loans as well as the required disclosures which must be given to the borrower.

The Georgia Fair Lending Act is more restrictive than the “Section 32” standards of The Homeownership and Equity Protection Act (HOEPA) of the Truth in Lending Act (Regulation Z), and defines the maximum points and fees as 5% (excluding bona-fide discount points) of \$20000 or greater and 8% of loans less than \$20000. Georgia high cost loan standards are adopted from Section 152 of HOEPA.

Section 32 of HOEPA, is the high cost standard utilized for mortgage lending in most states, has defined a high cost loan to one in which any fee exceeding the larger of \$528 or 8% of the total loan amount.

HOEPA addresses certain deceptive and unfair practices in home equity lending. HOEPA amended the Truth in Lending Act and established requirements for certain loans with high rates and/or high fees. The rules for these loans are contained in Section 32 of Regulation Z, so the loans are called “Section 32” loans. A loan is considered a “high-cost” or “Section 32 loan if it meets the following tests:

- A first mortgage lien that is the original mortgage on the property, where the annual percentage rate (APR) exceeds by more than eight percentage points the rates on Treasury securities of comparable maturity.
- A second mortgage lien where the APR exceeds by more than 10 percentage points the rates in Treasury securities of comparable maturity.
- The total fees and points payable by the consumer at or before closing exceed the larger of \$528 or eight percent of the total loan amount.

Section 32 rules do not cover construction loans, reverse mortgages or home equity lines of credit.

While Section 32 loans are allowed as long as accompanied by the appropriate disclosures to the consumer, most wholesale lenders will not table-fund a loan exceeding Section 32 limits. The Georgia Fair Lending Act requires the lender to give these notices: _____.
Provisions of the Georgia Fair Lending Act are as follows:

Georgia has also enacted the Georgia Residential Mortgage Fraud Act which regulates acts which constitute mortgage fraud in the state of Georgia. This act defines prohibited acts by lenders and penalties associated with such actions which constitute mortgage fraud.

16-8-100.

This article shall be known and may be cited as the 'Georgia Residential Mortgage Fraud Act.'

16-8-101.

(1) 'Mortgage lending process' means the process through which a person seeks or obtains a residential mortgage loan including, but not limited to, solicitation, application, or origination, negotiation of terms, third-party provider services, underwriting, signing and closing, and funding of the loan. Documents involved in the mortgage lending process include, but are not limited to, uniform residential loan applications or other loan applications; appraisal reports: HUD-1 settlement statements; supporting personal documentation for loan applications such as W-2 forms, verifications of income and employment, bank statements, tax returns, and payroll stubs; and any required disclosures.

(2) 'Pattern of residential mortgage fraud' means one or more misstatements, misrepresentations, or omissions made during the mortgage lending process that involve two or more residential properties, which have the same or similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics.

(3) 'Person' means a natural person, corporation, company, limited liability company, partnership, trustee, association, or any other entity.

(4) 'Residential mortgage loan' means a loan or agreement to extend credit made to a person, which loan is secured by a deed to secure debt, security deed, mortgage, security interest, deed of trust, or other document representing a security interest or lien upon any interest in one-to-four family residential property located in Georgia including the renewal or refinancing of any such loan.

16-8-102.

A person commits the offense of residential mortgage fraud when, with the intent to defraud, such person:

- (1) Knowingly makes any deliberate misstatement, misrepresentation, or omission during the mortgage lending process with the intention that it be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process;
 - (2) Knowingly uses or facilitates the use of any deliberate misstatement, misrepresentation, or omission, knowing the same to contain a misstatement, misrepresentation, or omission, during the mortgage lending process with the intention that it be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process;
 - (3) Receives any proceeds or any other funds in connection with a residential mortgage closing that such person knew resulted from a violation of paragraph (1) or (2) of this Code section;
 - (4) Conspires to violate any of the provisions of paragraph (1), (2), or (3) of this Code section;
- or
- (5) Files or causes to be filed with the official registrar of deeds of any county of this state any document such person knows to contain a deliberate misstatement, misrepresentation, or omission.

An offense of residential mortgage fraud shall not be predicated solely upon information lawfully disclosed under federal disclosure laws, regulations, and interpretations related to the mortgage lending process.

16-8-103.

For the purpose of venue under this article, any violation of this article shall be considered to have been committed:

- (1) In the county in which the residential property for which a mortgage loan is being sought is located;

- (2) In any county in which any act was performed in furtherance of the violation;
- (3) In any county in which any person alleged to have violated this article had control or possession of any proceeds of the violation;
- (4) If a closing occurred, in any county in which the closing occurred; or
- (5) In any county in which a document containing a deliberate misstatement, misrepresentation, or omission is filed with the official registrar of deeds.

16-8-104.

District attorneys and the Attorney General shall have the authority to conduct the criminal investigation and prosecution of all cases of residential mortgage fraud under this article or under any other provision of this title.

16-8-105.

- (a) Any person violating this article shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than one year nor more than ten years, by a fine not to exceed \$5,000.00, or both.
- (b) If a violation of this article involves engaging or participating in a pattern of residential mortgage fraud or a conspiracy or endeavor to engage or participate in a pattern of residential mortgage fraud, said violation shall be punishable by imprisonment for not less than three years nor more than 20 years, by a fine not to exceed \$100,000.00, or both.
- (c) Each residential property transaction subject to a violation of this article shall constitute a separate offense and shall not merge with any other crimes set forth in this title.

16-8-106.

All real and personal property of every kind used or intended for use in the course of, derived from, or realized through a violation of this article shall be subject to forfeiture to the state.

Forfeiture shall be had by the same procedure set forth in Code Section 16-14-7. District attorneys and the Attorney General may commence forfeiture proceedings under this article."

SECTION 3.

Chapter 14 of Title 16 of the Official Code of Georgia Annotated, the "Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act," is amended by striking divisions (9)(A)(xxxvii) and (9)(A)(xxxviii) of Code Section 16-14-3, relating to definitions of terms relating to racketeering activity, in their entirety and inserting in lieu thereof the following:

"(xxxvii) Code Section 33-1-9, relating to insurance fraud;

(xxxviii) Code Section 16-17-2, relating to payday loans; or

(xxxix) Code Section 16-8-102, relating to residential mortgage fraud."

SECTION 4.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.

Key Numbers/Rules of Article 13 (GRMA)

- ◆ 0 inactive period for LP, MB, ML (renews annually; expires 6/30)
- ◆ 0 experience required for licensure as a ML
- ◆ 0 continuing education requirement for LO, LP, and ML
- ◆ 0 net worth requirement for LO and LP
- ◆ 0 Audited financial statements by ML (MB must submit annually if HUD required)
- ◆ 1 hour (of 40 hour course/12 hour C.E.) must be related to Fraud Detection
- ◆ 1 company at a time as an employed (W-2) LO or processor (LP, MB, ML)
- ◆ 1 Registered Agent (for MB & ML) physically located in the state of GA
- ◆ 1 Branch manger per office (requires credit report, background check, finger print)
- ◆ 2 years experience required for MB; (4 hours of state law)
- ◆ 4 hours of GA State Law, if MB experienced for 2 years
- ◆ 5 years maintain samples of printed advertisements
- ◆ 5 years maintain record of all books, accounts, and records
- ◆ 5 days records must be accessible to the department if stored at another location
- ◆ 5 years maintain records for proof of continuing education requirements
- ◆ 6 month age of the credit report for LP, Branch Manager, MB or ML for licensure
- ◆ \$6.50 GRMA per loan fee payable semi-annually (March 1st and September 1st)
- ◆ 7 maximum period allowed to maintain mortgage transaction journal
- ◆ 10 days to submit background information to GCIS after hiring employee
- ◆ 10%+ ownership interest-fingerprint card, criminal background check, credit report
- ◆ 12 hours of continuing education required for all MB
- ◆ 15 days notification to the department of a change in address
- ◆ 24 hour servicing period for table funded loans by Mortgage Broker
- ◆ \$30 finger-print fee payable at initial application. hiring of employee, branch manager
- ◆ 40 hours pre-licensing course (if MB has no experience)
- ◆ \$250 Investigation fee (Initial applicants only)
- ◆ \$300 fine for late renewal (After April 1 – respective fiscal year)
- ◆ \$350 Branch Office fee and renewal
- ◆ \$500 application fee for Mortgage Brokers (annually)
- ◆ \$1000 application fee for Mortgage Lenders (annually)
- ◆ 1099 Commission available to Licensed Processors from various MB and ML
- ◆ \$50,000 surety bond or irrevocable line of credit (Mortgage Broker)
- ◆ \$150,000 surety bond or irrevocable line of credit (Mortgage Lender)
- ◆

Review of Key Numbers/Terms for Article 13 (GRMA)

Loan Officer

- ◆ **0 Continuing Education Hours**
- ◆ **1 Can only work as employee for one company at a time**
- ◆ **W-2 earnings are subject to Federal withholding**
- ◆ **10 days maximum to submit background information to employer and GCIS**
- ◆ **\$30 Finger Print Card fee at time of hiring**

Loan Processor

- ◆ **0 Continuing Education Hours**
- ◆ **1 Can only work as employee (unlicensed processor) for one company at a time**
- ◆ **10 days maximum to submit background information to employer and GCIS**
- ◆ **1099 Commission available to Licensed Processors from various MB and ML**
- ◆ **\$30 Finger Print Card fee at time of hiring**
- ◆ **\$500 Application/renewal fee for Loan Processor license**

Mortgage Broker

- ◆ **0–no audited financials (HUD-approved Loan Correspondent Broker is annually)**
- ◆ **1 Branch Manager per Branch office – 1 additional branch at initial application**
- ◆ **1 hour of Mortgage Fraud Detection required of pre-licensing course**
- ◆ **2 year experience required (Exempt from 40hr pre-licensing course) – 4hour GA law**
- ◆ **5 years maintain books, accounts, records**
- ◆ **12 hours of Continuing Education annually**
- ◆ **\$300 late renewal fee**
- ◆ **\$350 Branch Office fee and renewal**
- ◆ **\$500 Application/renewal fee for Mortgage Broker license**
- ◆ **\$50,000 surety bond or irrevocable line of credit**

Mortgage Lender

- ◆ **0–no audited financials**
- ◆ **0- pre-licensing and continuing education courses required**
- ◆ **5 years maintain books, accounts, records**
- ◆ **\$1000 Application/renewal fee for Mortgage Lender license**
- ◆ **\$150,000 surety bond or irrevocable line of credit**
- ◆ **Life of the loan servicing period**
- ◆ **Can sell to institutional and non-institutional investors**

ARTICLE 13-GRMA: STATUTORY KEY DATES

IMPORTANT DATES TO REMEMBER

- February** Annual License renewal notices are sent out in February and applications must be completed no later than April 1st. Any renewals received after April 1st will be subject to a **\$300 late fee plus the annual renewal fee** and will be worked as time permits. Keep in mind that during the renewal period the Department still receives new applications and these must also be reviewed in a timely manner, so renewals that are not received by the due date (April 1st) are secondary at this time.
- March 1st** \$6.50 “per loan fees” for period July 1st - December 31st due in Department.
- April 1st** Annual License renewal applications due in the Department.
- June 1st** Surety Bond cancellation/non-renewal notices due to the Department.
- Mid-June** Annual Licenses that are approved for **renewal** for the coming year will be mailed beginning mid-June and continue through the end of June.
- July 1st** Licenses that were not renewed for the coming year will expire on this date and licensees must cease doing business on Georgia residential properties.
- September 1st** \$6.50 “per loan fees” for period January 1st - June 30th due in Department.

Article 13 GA State Law Quiz

- 1** According to Article 13 how many hours of class time must an inexperienced applicant seeking licensure as a Mortgage Broker fulfill?
- A. 0, class time only required for LO's
 - B. 4 Hours of GA State Law
 - C. 24 Hours
 - D. 40 Hours
- 2** According to Article 13, 4 hours of GA State Law is required to be fulfilled by:
- A. Any applicant of any license regulated by Article 13
 - B. Licensed Mortgage Lenders with no previous servicing history within the state
 - C. Mortgage Brokers who do not fulfill the net worth requirement
 - D. Applicants seeking licensure as a Loan Processor; based upon experience
- 3** How long is the inactive period for a licensed Mortgage Lender?
- A. 1 Year; must renew annually April 1-June 30
 - B. 9 months; must renew annually April 1
 - C. 6 months; must renew bi-annually by April 1
 - D. 3 months; must renew annually April 1-June 30
- 4** When can you operate as a Mortgage Broker employing Loan Officers?
- A. You cannot hire unlicensed LO's
 - B. Once that LO becomes licensed
 - C. Both A & B
 - D. When you have received your license from the Department
- 5** When HUD required, who is subject to submitting audited financial statements?
- A. Loan Processor
 - B. Mortgage Lender
 - C. Mortgage Broker
 - D. All of the above
- 6** As a Mortgage Broker who else along with the applicant for licensure must pass a background check?
- A. All loan officers
 - B. Only those processors working on W-2 basis
 - C. Owners, officers, directors, & branch managers
 - D. Any owner with a 10% or more interest

- 7** What is the net worth requirement for Loan Officers in the State of Georgia?
- A. \$50000 as evidenced by surety bond
 - B. \$0 provided the 40 hour course requirements have been met
 - C. \$0
 - D. \$50000 as evidenced by audited financial statements
- 8** What is the net worth requirement for a licensed Mortgage Lender in the State of Georgia?
- A. \$150,000, evidenced by audited financial statements
 - B. \$150,000, evidenced by a line of credit or a surety bond
 - C. \$50,000, evidenced by a line of credit or a surety bond
 - D. None of the above
- 9** What is the net worth requirement for a licensed Mortgage Broker in the State of Georgia?
- A. \$150,000, evidenced by audited financial statements
 - B. \$50,000, evidenced by audited financial statements
 - C. \$50,000, evidenced by a line of credit or a surety bond
 - D. None of the above
- 10** What is the reactivation fee for a loan officer who failed to fulfill continuing education requirements
- A. \$250
 - B. \$300
 - C. \$0, LO's don't need continuing education nor are they subject to licensure
 - D. \$500
- 11** According to Article 13, which of the following is not exempt from the acts of provisions?
- A. A Mortgage Broker working for a Lender as a W2 employee
 - B. A Loan Officer working for a Mortgage Broker as an employee
 - C. Contract Processor who works for various mortgage companies, but doesn't originate loans
 - D. All of the above
- 12** Olga is a licensed Loan Processor who operates as 10-99 for multiple Mortgage Brokers, has failed to renew her license by April 1st. What total fees are required for her to resume operations?
- A. \$500
 - B. \$800
 - C. \$300
 - D. \$1600

- 13** Under Article 13, who can sell loans to institutional investors?
- A. Loan Processor or Mortgage Lender
 - B. Mortgage Broker Only
 - C. Mortgage Lender Only
 - D. Mortgage Broker or Mortgage Lender
- 14** Which of the following does not have to provide evidence of 40 hour classroom instruction when applying for licensure as a Mortgage broker?
- A. Someone with documented proof of 2 years, full time employment in industry
 - B. An individual with an employer letter proof of experience and 1 hr of mortgage fraud obtained/completed within the past 12 months
 - C. Someone actively engaged in the mortgage industry for 1yr, and fulfilling the state's minimum the net worth requirements
 - D. Only 4hr course on Georgia state law is required
- 15** How long must a mortgage broker keep copies of its W-2 statements of its employees?
- A. 2 years
 - B. not at all
 - C. 3 years
 - D. 5 years
- 16** The Article 13 statutory definition of "Person" includes:
- A. LLC
 - B. Individual
 - C. Choices A, B & D
 - D. Partnership
- 17** How many hours of continuing education are required for a Mortgage Broker?
- A. 0, Cont. Ed. Only required for LO's
 - B. 4 Hours of GA State Law
 - C. 12 Hours
 - D. 4 Hours, with at least one hour on Fraud Detection
- 18** For all branch brokers required to provide a credit report, the credit report should be no older than:
- A. 90 Days
 - B. 30 Days
 - C. 60 Days
 - D. Branch brokers not required, only principal broker, owner and officers required

- 19** How many years of experience are required for licensure as a Mortgage Lender?
- A. 4 Years
 - B. 0
 - C. 2 Years
 - D. 0, as long as there is documented proof of 4 Hours Continuing Education
- 20** In order to operate as a branch office of a Mortgage Broker one must:
- A. Have a credit report service
 - B. Keep copies of 1099's of all unlicensed employees
 - C. Choices A, B & D
 - D. Have a physical office (if State requires as such)
- 21** Which of the following statements is true under Article 13?
- A. Licensed mortgage lenders only need 4hr CE if net worth falls below \$100000
 - B. Contract Processors (1099) face the same education requirements as Loan Officers
 - C. The 1 hour class on mortgage fraud is not required for Loan Officers
 - D. 4 of the mortgage broker's 12hr CE hrs must contain the Georgia Fair Lending Act
- 22** An applicant for a mortgage Lender would not be allowed to use which of the following names?
- A. Good Faith Mortgage Lenders
 - B. Georgia Federal Mortgage Lenders
 - C. United we Trust Mortgage Lenders
 - D. All of the above
- 23** Records by an out of state Mortgage Broker are required to be kept for how long?
- A. Indefinitely
 - B. 3 Years
 - C. 5 Years
 - D. Whatever is mandated by their home state
- 24** A mortgage lender who net worth falls below \$150000 must?
- A. Cease and Desist within 30 days
 - B. Can continue processing existing loans only; may not originate new loans
 - C. Must file a conversion of status form to Mortgage Broker within 30 days
 - D. Operate with a reduced servicing period; as long as there is \$100000 net worth
- 25** Licensees must maintain a sample of its advertisements for a period of:
- A. 2 years
 - B. 3 years
 - C. 5 years
 - D. 1 year

- 26** Which of the following is exempt from Article 13 Licensing?
A. A mortgage broker paid on a 1099-Basis from a Mortgage Lender
B. A Loan Officer of various mortgage brokers who has passed all background/education requirements
C. A Processor who works as an employee of a licensed contract processing company
D. None of the above
- 27** Under Article 13 the MB or ML are required to have the following:
A. A sign containing the name of the licensee and the words, 'Licensed Mortgage Brokerage Business'
B. The names of each unlicensed loan officer who 'acts as a loan originator' from that location
C. Any occupational licenses required by local governments
D. Georgia Residential Mortgage Licensee and Permit# on all advertisements
- 28** Marvin was convicted of a crime relating to the mortgage industry. His civil rights have since been restored. What would be required when applying for a mortgage broker's license?
A. Only will be able to obtain the license if the crime was a misdemeanor
B. If the felony crime is within 7 years all previous books/records must be provided
C. Will not be able to obtain a license if convicted within the last 3 years
D. All of the above
- 29** A Mortgage Brokers license must be renewed:
A. Biannually by June 30
B. Biennially ending 12/31
C. Annually April 1
D. Is active as long as the \$150,000 surety bond is current
- 30** Under the rules of Article 13, which of the following is a required document to be, maintained in a file for a mortgage broker prior to completing an application?
A. A mortgage broker business journal indicating all prospects and their credit file
B. Copy of the loan application
C. Notice of transfer of servicing rights
D. The mortgage brokerage contract
- 31** Gerri is an unlicensed processor of ABC Mortgage Lenders. Gerri quotes interest rates; loan terms and takes applications on 1099-basis. Which best applies?
A. Gerri is not required to be a mortgage broker
B. Gerri is not acting as a mortgage broker
C. Gerri is acting as a loan originator in violation of Article 13
D. None of the above is correct

- 32** A Mortgage Brokerage license:
- A. May be transferred when written approval is obtained from the state comptroller
 - B. May be transferred when the licensee changes Principal Brokers
 - C. Is subject to a fine if 25% or more is transferred without department consent
 - D. May be transferred when the Department is notified within 7 business days (immediately)
- 33** Bill is the employee of Whitewater Mortgage Broker Corporation. He quotes mortgage rates to prospective applicants, takes loan applications, negotiates mortgage loans, and receives compensation upon the funding of the loan. Which of the following statements is correct?
- A. Bill must be licensed as a mortgage broker or he is in violation of Article 13
 - B. Bill can be a loan originator for Whitewater as long as the loan is not table funded
 - C. There is a violation of Article 13 if Whitewater assigns the loan after 48 hours.
 - D. Bill can be an originator only if the loan is brokered by Whitewater and not table funded.
- 34** The Branch Manager is responsible for:
- A. All branches and offices of the Mortgage Broker
 - B. Only 1 branch office at a time for an unlicensed Loan Processor
 - C. Only the actual office of which he is an employee for the Mortgage Lender
 - D. All of the above
- 35** What is the re-activation period for a Mortgage Lender?
- A. 3 months
 - B. 2 years
 - C. 6 months
 - D. 4/30 of an odd year
- 36** Article 13 & RESPA, prohibits a mortgagee from unreasonably withholding the distribution of insurance proceeds of a mortgage for:
- A. Roof replacement
 - B. Termite damage
 - C. Personal contents destroyed by flood damage
 - D. Structural damage caused by fire
- 37** John's Mortgage Broker license has expired, and he is currently working as a LO for a Mortgage Lender. John is required to:
- A. Reactivate within 1 year – with current background check
 - B. Reactivate within 2 months – with \$300 late fee
 - C. Reactivate within 6 months with current credit report
 - D. Loan officers are exempt under Article 13 if hired as employees

- 38** A mortgage broker or a mortgage lender hires someone to originate residential mortgage loans only. What is required in order for the individual to be exempt from licensure?
- A. The person must be an independent contractor of the Mortgage Broker Business or Correspondent Lender
 - B. The person can only work as an employee of the Mortgage Broker Business and as a contract processor for the Mortgage Lender.
 - C. As an employee of the Mortgage Broker, he is subject to Federal withholding taxes and FICA contributions by the employer.
 - D. He can only be an employee for a Mortgage Lender
- 39** Which is a requirement for becoming designated as a Registered Agent?
- A. 2 year experience in the mortgage industry and 4 hours on state law
 - B. Completed 40-hour education course via classroom, Internet, or correspondence
 - C. 12 hours of Continuing Education completed within 1st renewal period
 - D. Physical address in the state of Georgia
- 40** The individual in charge of, and responsible for, the operation of a branch office of a Mortgage Broker:
- A. The Principal Mortgage Broker
 - B. Licensed Branch Processor
 - C. Licensed or Unlicensed Branch Manager
 - D. Un-licensed Mortgage Broker with satisfactory background clearance

Article 13 GA State Law Answers

- 1 D: Inexperienced applicants=40 hrs; experienced applicants (verifying 2 yrs exp) =4 hrs.
- 2 D: LP's licensing requirements 4 hrs with experience (12 hrs C.E.), w/o experience 40 hours.
- 3 D: Licenses are renewable annually (by April 1).
- 4 D: MB's can hire LO's on a W2 basis (as employees).
- 5 C: HUD approved MB's are the only business license subject to audited financials.
- 6 C: All officers, owners, directors & branch managers must pass background/credit check.
- 7 C: LO's as an employee of MB & ML are not required to provide net worth.
- 8 B: GA doesn't require audited financials for MB's (unless MB is HUD approved/ required).
- 9 C: GA doesn't require audited financials for ML's at all.
- 10 C: Only LP's & MB's are subject to education requirements.
- 11 C: A LP working as an Independent Contractor must be licensed.
- 12 B: \$500 (renewal fee) + \$300 (late fee).
- 13 D: Both MB's (24 hours) & ML's (lifetime) can sell to institutional investors.
- 14 A: 2 years full time experience; only requires 4 hours GA State Law.
- 15 D: All books, accounts & records should be kept for 5 years.
- 16 C: A person, corporation, LLC, partnership or any other entity.
- 17 C: 12 hours (at least 1 on Fraud); the same requirements for LO's.
- 18 C: 60 day credit report required for all owners, officers, directors & branch managers.
- 19 B: ML's aren't required to verify experience nor subject to education requirements.
- 20 D: A physical office is required if home state requires.

- 21 C: LO's not subject to educational requirements.
- 22 B: Licensees may not use "Federal or United States (U.S.)" in their name.
- 23 C: All licensees must keep all books, accounts, & records for 5 years.
- 24 D: ML's allowed to service loans for a reduced period, if minimum net worth of \$100,000.
- 25 C: Advertisement records must be kept for 5 years.
- 26 C: All employees (W2 basis) of LP's, MB's & ML's are exempt from licensure.
- 27 D: All advertisements must state "GA Residential MTG Licensee" & the permit #.
- 28 C: Convicted felons must have restored rights or been pardoned: the crime cannot have happened w/in 3 years.
- 29 C: Licenses must be renewed by April 1 (4/2-6/30=subject to \$300 Late Fee).
- 30 D: MB Contract required prior to completion of loan application.
- 31 C: All unlicensed & LP's & LO's of MB's & ML's must be paid as employees (W2 basis).
- 32 C: Transfer of 25% or more ownership, subject to fine of \$_____.
- 33 C: Licensed MB's can close in their own name; must assign w/in 24 hours.
- 34 C: Branch manager of MB or ML must be paid as employee (W2 basis)
- 35 A: April 2-June 30 renewable-reactivation period, in which a \$300 late fee applies.
- 36 C: Proceeds for personal content must be forwarded to the mortgagor.
- 37 D: The Loan Officer is not subject to licensing and thus there is no renewal.
- 38 C: All employees (W2 basis) are exempt from licensure.
- 39 D: Registered agents must have a physical presence in State of Georgia.
- 40 C: The Branch Manager does not need to be licensed.

GFLA Act; GRMF Act; Admin Fines and Penalties:

- 1** The Georgia Fair Lending Act is effective if a loan is subject to the provisions of:
- A. Truth in Lending Act
 - B. RESPA
 - C. ECOA
 - D. Home Ownership and Equity Protection Act
- 2** What properties are covered under the Georgia Fair Lending Act?
- A. Single Family Residence only
 - B. 1-2 units
 - C. Any 1-4 units residential property
 - D. 1-4 unit's primary residence only
- 3** The Georgia Fair Lending Act restricts maximum points and fees payable by the consumer to the broker to?
- A. 5% inclusive of bona-fide discount points
 - B. 5% exclusive of bona-fide discount points
 - C. Lesser of 8% or \$1000 for loans less than \$20,000
 - D. B & C
- 4** Which is statement is an example of "Flipping a Home"?
- A. The refinance of a non-homesteaded residential property which there is a tangible benefit to the investor/borrower
 - B. The resale of a property acquired within a 6 months period from a distressed seller
 - C. Refinancing an government agency loan through another government agency within a 5 year period
 - D. A broker refinancing a borrower within 2 years whose payments will increase
- 5** Under the GA Fair Lending Act, a "High Cost Loan is?"
- A. Any loan of which exceeds Federal Section 32 limits
 - B. Only loans which Section 32 disclosures have not been given
 - C. Any loan which brokerage fees exceed 5% (excluding bona fide discount points)
 - D. Any loan which all broker and funding lender fees exceed 5%
- 6** According to the Georgia Fair Lending Act, the maximum allowable commission charged by a licensed Mortgage Broker on a \$150,000 loan is?
- A. \$12,000
 - B. \$6,000 including Yield Spread Premium
 - C. \$7,500
 - D. \$6,000

- 7** Under the Georgia Mortgage Fraud Act the venue of the act is?
- A. The county of which the property is located
 - B. The county of which any act was performed in violation
 - C. Any county of which the closing occurred
 - D. All of the above
- 8** Susie, as the grantee, files a quit-claim deed on a property with the clerk of court of which 2 of the 3 owners of record are serving as the grantors, Which best applies?
- A. Susie is in violation of the Georgia Residential Mortgage Fraud Act
 - B. Susie may not have a valid clear title
 - C. Susie may have to perform a suit to quiet title to avoid penalties under RESPA
 - D. All of the above
- 9** Which one of the following loan types is covered under GAFLA?
- A. A construction loan, which will be the primary residence
 - B. A reverse mortgage
 - C. A non-assumable residential loan, which is a primary residence
 - D. All of the Above
- 10** Under what provisions is a borrower prohibited from refinancing his property?
- A. A loan originated 2 years ago with a pre-payment penalty of which there is a net tangible benefit to the borrower
 - B. A loan originated 5 years ago, in which the broker will be charging 5% total origination fees, as well as 3% funding lender discount points
 - C. An existing FHA loan refinanced with a FNMA conforming loan, of which required section 32 and GFLA disclosures are given to the borrower
 - D. A loan originated by a government agency, which does not include tangible benefits worksheet in its file
- 11** A person who knowingly using or facilitates the use of any deliberate misstatement, misrepresentation, or omission during the mortgage lending process is subject to the penalties of the?
- A. The Georgia Fair Lending Act
 - B. The Truth in Lending Act
 - C. The Georgia Residential Mortgage Fraud Act
 - D. Equal Credit Opportunity Act

- 12** Uniform residential applications, appraisals, Hud-1 settlement statements are documents directly involved in?
- A. Desktop Underwriting for FNMA non-conforming loans
 - B. The Mortgage Lending Process
 - C. Homeowners Protection Act of 1998
 - D. All of the above
- 13** Under the Georgia Residential Mortgage Fraud Act, a residential mortgage loan is:
- A. A loan made on any 1-4 family property, which is the primary residence of the borrower
 - B. A single-family residence only located in Georgia
 - C. Any primary residence or second home (1-2 units) located in Georgia
 - D. A loan made on any 1-4 family property located in Georgia
- 14** Which of the following is not a violation of the Georgia residential Fraud Act?
- A. Failure to fund a purchase money mortgage transaction
 - B. Misrepresentation of an applicant's actual income
 - C. The omission of adverse property condition to the funding mortgage lender
 - D. None of the above
- 15** Vance has a borrower who he refinances 3 different properties as a primary residence simultaneously. Vance has a limited interest (10%) in the appraisal company; Vance is guilty of?
- A. Violation of Article 13, if Conflict of Interest disclosure is not given
 - B. Violation of RESPA, if Affiliated Business arrangement is not given
 - C. A & B
 - D. A Pattern of Residential Mortgage Fraud
- 16** The Article 13 statutory definition of "Person" is:
- A. A natural person seeking financing of a 1-4 unit property in the State of Georgia
 - B. A natural person, a corporation, company, limited liability company, partnership, trustee, association, or any other entity extending credit secured by a security deed, mortgage or a deed of trust
 - C. A natural person, a corporation, company, Limited Liability Company, partnership, trustee, association, or any other entity
 - D. All of the above

- 17** When a person is in violation of the Georgia Residential Fraud Act, it is:
- A. Punishable by no less than 1 year imprisonment or no more than 10 years
 - B. A fine of no more than \$5000
 - C. A & B
 - D. A fine of \$5000 and 3 year revocation of license with no imprisonment
- 18** When a person is deemed in violation of a “pattern of residential mortgage fraud” the said violation shall be punishable by?
- A. Imprisonment of no less than 3 years nor more than 20 years
 - B. A fine up to a maximum of \$10,000
 - C. A maximum fine of \$10,000 and 2 year revocation of license/imprisonment
 - D. All of the above
- 19** According to the Georgia Residential Mortgage Fraud Act, which is a true statement?
- A. Licensees face imprisonment and/or fines only
 - B. All real and personal property of every kind used in the course of a mortgage fraud violation shall be subject to forfeiture
 - C. A & B
 - D. Convicted felons require a minimum of a 5 year period, before obtaining a new license
- 20** The following is an example of residential mortgage fraud as per GRMF Act?
- A. Understating an applicant’s income by failing to include part-time job of 1.5 years
 - B. Overstating an applicant’s income in order to qualify for larger home
 - C. Not reporting alimony of child support payments received
 - D. None of the above
- 21** When a licensee has violated any law or any order or regulation of the department of Banking and Finance, it is true that the department may:
- A. Imprison the Licensee/Mortgagor
 - B. Refund all funding lender discount points to the originating broker
 - C. Issue a written order, a cease and desist order” requiring such violators to stop such unauthorized practices
 - D. None of the above
- 22** How long after a “cease and desist” order is issued is the order final?
- A. 10 days
 - B. 20 days
 - C. 30 days
 - D. 24 hours

- 23** Any licensed or registered mortgage broker or lender in violation of any state advertising regulation shall be subject to a fine of?
- A. \$1000
 - B. \$5000
 - C. \$500
 - D. \$100
- 24** A licensed MB originates a GA loan & closes in their name with funds provided by a wholesale lender. The loan is assigned within 48 hrs. The MB has not?
- A. Violated the Georgia Residential Mortgage Act
 - B. Table funded the loan
 - C. Funded on a warehouse line
 - D. All of the above
- 25** According to Article 13, what does “Failure to Exam” mean?
- A. Any licensee who has failed the continuing education requirements
 - B. A mortgage broker who does not complete his 1 hour course on Mortgage Fraud
 - C. When a licensed entity refuses to permit an investigation of books, accounts and records
 - D. All of the above
- 26** Vance refused to allow the state to investigate his financial records; he shall be charged a maximum fine of?
- A. \$500
 - B. \$100
 - C. \$5000
 - D. \$10000
- 27** At least how many times will a notification of a necessary investigation be sent before a fine will be charged?
- A. One time to the registered agent only
 - B. 3 times to the corporate address on file
 - C. 4 times
 - D. 2 times
- 28** Marvin is a licensed mortgage broker and starts cultivating business through a branch in which his cousin, an un-licensed, un-registered loan officer, acts as the branch manager. Which of the following statements about Marvin is true?
- A. Marvin cousin must be paid on a 1099 basis in order to avoid a fine
 - B. Marvin has 90 days to submit a GICC background report to the Department
 - C. Marvin is in violation of Article 13 and may be charged a fine of \$500
 - D. There is no violation if the Branch manager is paid on a W-2 basis

- 29** The penalty for operating a mortgage business without meeting licensing standards results in a fine of?
- A. \$10000 maximum
 - B. \$5000 maximum
 - C. \$1000 per violation
 - E. \$500 per violation
- 30** Failure to perform background checks on covered employees shall result in a penalty fine of?
- A. \$500 per branch(s) offices of where the violation occurs
 - B. \$10000 maximum
 - C. \$500 per employee
 - D. \$1000 per employee
- 31** What is the penalty for licensees in violation of failure to fund?
- A. Revocation of a license
 - B. All applicable fines and penalties as regulated under the GA Residential Mortgage Fraud Act at the department's discretion
 - C. \$5000 per transaction
 - D. \$10000 maximum
- 32** When a business fails to notify the department of a change of principal brokers, they may be subject to a fine of?
- A. \$0 and revocation of the existing registered agent
 - B. \$5000 & the inability to originate new loans until the principal broker is approved
 - C. \$500 per occurrence
 - D. \$1000 if the fingerprints and credit report of the new broker is on file.
- 33** Violators of the Georgia Fair Lending Act are subject to a penalty of?
- A. \$1000 per violation
 - B. Licensure subject to suspension or revocation
 - C. A & B
 - D. Forfeiture of all real property only obtained through the violation
- 34** How many days will the state allow for a business to submit background information by an employee?
- A. 30 days if the employee is paid on W-2 basis
 - B. 30 days of for all employees and independent contractors working as processors
 - C. 10 days
 - D. 10 business days: only if the employee is pre-qualified by law enforcement

- 35** When a business fails to respond to a consumer complaint with the department, they may be subject to a penalty of?
- A. \$1000 per occurrence or revocation of licensure
 - B. \$1000 fine only
 - C. \$500 fine per occurrence
 - D. No fine, prior to a department required hearing on the complaint.
- 36** The form attached to the application allowing the request for information regarding credit, former employers, criminal history, etc., on the applicant is the?
- A. Statement of Income Form
 - B. Bond Form
 - C. Background Check Authorization Form
 - D. Personal History Form
- 37** The Personal Reference section of the license application has a copy attached of the applicant's?
- A. Group photo with applicant
 - B. Graduation photo
 - C. Passport photo
 - D. Personal photo (taken within the last 5 years)
- 38** The Georgia Department of Banking and Finance, Mortgage Division, regulates?
- A. Mortgage Brokers only
 - B. Mortgage lenders and Loan Processors
 - C. Banks only
 - D. All of the above
- 39** A licensee's records pertaining to bookkeeping, etc., will be examined at least once every?
- A. Month
 - B. Six weeks
 - C. 24 months
 - D. 12 months
- 40** The surety bond maintained by the mortgage broker or lender must be issued by a bonding company located?
- A. Within the United States
 - B. Within any state contiguous with Georgia
 - C. Anywhere
 - D. Within the state of Georgia

GFLA Act; GRMF Act; Admin Fines and Penalties-Answers:

- 1 *D:All loans subject to Section 32 are high cost loans under GAFLA.*
- 2 *D:GAFLA only covers 1-4 unit primary residences.*
- 3 *D:GAFLA loans may be more restrictive than Federal Section 32 loans.*
- 4 *D:If less than 5 year period a tangible benefit must be documented.*
- 5 *C:Funding lender's discount points (below par pricing) are not subject to the 5% cap.*
- 6 *C:Maximum origination fees are 5% → \$150,000 * 5% = \$7,500.*
- 7 *D:Anywhere the violation occurred can be considered the venue.*
- 8 *B:Recording the defective deed is not fraudulent; however it does cloud Title.*
- 9 *C: GAFLA requires residency while GRMFA does not.*
- 10 *C:Any loan requiring Section 32 disclosures (7.99%) would be prohibited under GAFLA.*
- 11 *C:GRFMA is designed to prevent fraud by omission or co-omission.*
- 12 *B:Statutory definition of "Mortgage Lending Process."*
- 13 *D: GRFMA applies to any 1-4 unit (residential), GAFLA applies to primary residences only.*
- 14 *A:Seller held mortgages do not need funding; failure to fund is a violation of Article 13.*
- 15 *D:Borrower can't own 3 properties as their primary residence.*
- 16 *C:Statutory definition of "Person."*
- 17 *C:Violations of GRMFA are punishable by at least 1 year prison and/or max fine of \$5000.*
- 18 *A:A Pattern of Mortgage Fraud can result in minimum 3 years prison and/or max fine of \$100,000.*
- 19 *B:Real & personal property subject to seizure in addition to fines & imprisonment.*
- 20 *B:Part time less than 2 yrs and alimony received are not qualified income for UW.*

- 21 C: Department has right to issue cease/desist, suspend or revoke any license.
- 22 B: Cease & Desist Orders are final.
- 23 C: Advertise violations subject to a \$500/violation.
- 24 C: Mortgage Brokers may table fund; but must assign within 24 hrs. (MB did not table fund)
- 25 C: Department has the right to audit accts & records without notice, and may do so once every 24 months.
- 26 C: Failure to Exam fines result in a fine up to \$5000.
- 27 D: Department will attempt notification twice before imposing a fine.
- 28 C: All unlicensed employees (W2 basis) must complete background check authorization form.
- 29 C: Operating without license subject to a fine of \$1000/violation..
- 30 D: Failure to perform background check subject to fine of \$1000/employee.
- 31 C: Failure to fund subject to a fine of \$5000/transaction.
- 32 C: Change of Principal Broker without notification to the Department (must be done within 10 days) subject to a fine of \$500 or license revocation.
- 33 C: Violations of GAFLA subject to fines, suspension or revocation.
- 34 C: 10 days to submit the BG info; however employee can work pending Department approval.
- 35 A: Failure to respond to consumer complaints may result in a fine of \$1000/occurrence.
- 36 C: All applicants, employees, owners/directors must have Background Check Authorization form on file.
- 37 C: A passport photo is required on each applicant in an initial application.
- 38 B: Licensees regulated under the Mortgage Division are ML, MB, and Loan Processor.
- 39 C: The Dept will examine books/records one every 24 months.
- 40 A: Surety bonds companies (\$50,000; \$150,000) do not have to be GA corporations.

2007 Georgia Last Minute Review:

- 1 All persons included in the license application must submit/
A. Two sets of fingerprints
B. Fingerprints only if they have a felony conviction
C. One set of fingerprints
D. Three sets of fingerprints
- 2 An investigation of a licensee's records pertaining to bookkeeping, etc., will be examined by?
A. The Department of Banking and Finance
B. The FBI
C. City Officials
D. State Police
- 3 A decision on an application submitted to the Dept. of Banking and Finance to become licensed, is granted?
A. Within five working days
B. Within one month
C. Within 90 days after receipt of the application
D. Within one week
- 4 A visual aid for the underwriter to see the property and neighborhood is the?
A. An appraisal
B. A survey
C. An abstract
D. A virtual tour
- 5 To help consumers become better shoppers for settlement services, which Act was passed in 1974?
A. Fair Credit Reporting Act
B. RESPA
C. TIL
D. Fair Housing Act
- 6 The numbered lines on the Good Faith Estimate generally correspond with the numbers on the?
A. Verification form
B. Loan application form
C. Truth in Lending form
D. HUD-1 form

- 7** The mortgage loan transaction journal must be kept current by no less than every?
A. Seven days
B. Other two weeks
C. 2 years
D. 30 days
- 8** The minimum retention period for required items by the licensee or registrant is?
A. 6 months
B. Three years
C. Five years
D. One year
- 9** Annual mandatory fees from a mortgage lender or mortgage broker cover the licensee's?
A. Main office and two branches
B. Main office only
C. All offices and branches
D. Main office and one branch
- 10** On a purchase transaction, RESPA requires each borrower applying for a loan is to receive at application?:
A. A Special Information Booklet
B. The name of the appraiser
C. A Right of Rescission Form
D. A Loan Application Booklet
- 11** The document each borrower should receive at application regarding servicing of the mortgage loan is called the?:
A. Servicing Disclosure Statement
B. Assignee Statement
C. Mortgage Loan Services Statement
D. Transfer Statement
- 12** The collection of principal, interest, and escrow on a loan is called?:
A. Servicing
B. Collection Account
C. Loan Assistance
D. Loan Benefits

- 13** Through GAFLA, if borrowers feel their rights have been violated on a loan transaction they have the ability to?
- A. Receive a copy of the credit report
 - B. Receive an adverse action letter
 - C. Seek legal action
 - D. Receive a copy of the appraisal
- 14** Under GAFLA the loan amount cannot exceed?
- A. FHA conforming loan limit
 - B. FNMA conforming loan limit
 - C. rural Housing loan limit
 - D. VA conforming loan limit
- 15** GAFLA states flipping occurs when a lender knowingly and intentionally completes a refinance, high cost loan transaction on an existing loan that was consummated within the last?
- A. 7 years
 - B. 10 years
 - C. 5 years
 - D. 6 years
- 16** The GRMA provides an exemption from the licensing requirements of the Act for the following?
- A. Mortgage Licensed in contiguous states using their own funds
 - B. A non-GA mortgage broker who co-brokers with a Licensed GA mortgage broker
 - C. A statutory “person” making a loan with his or her own funds as part of purchase money transaction for his/her own investment.
 - D. None of the above
- 17** A for profit natural person is permitted to originate/fund up to ___ GA residential loans without subject to licensure?
- A. 0
 - B. 5
 - C. 3
 - D. 1
- 18** GRMA does not exempt the following when a residential loan is originated?
- A. HUD, FNMA, GNMA
 - B. Any grantee as part of a Purchase Money Mortgage Transaction
 - C. A non-profit organization acting as a mortgage broker
 - D. All of the above

- 19** Which disclosure is mandated by GRMA to be given at application?
- A. Analysis of Escrow Deposits
 - B. APR Disclosure
 - C. Good Faith Estimate
 - D. All of the Above
- 20** The form/disclosure specifically designed to determine if “flipping a loan” occurs is?
- A. Foreclosure Disclosure
 - B. Tangible Benefits worksheet
 - C. Good Faith Estimate
 - D. Truth in Lending Statement

2007 Georgia Last Minute Review-Answers:

- 1 A: Every officer, director, owner, and branch manager must submit finger prints & credit reports within (60 days). Future L.O. doesn't need to submit a credit report.
- 2 A: The D.B.F. requires all books, accounts & records to be kept for five years and accessible within 5 days. Transaction journal entries must be entered within 7 days.
- 3 C: Applicants will be decision within 90 days, and must respond to deficiencies with in 30 day.
- 4 A: Appraisals show age, condition, and value of the real property secured by the mortgage or deed of trust.
- 5 C: TIL act (reg. Z) requires lenders to disclose A.P.R. and give TIL within 3 days.
- 6 D: The GFE (3 days of Application) is a projection of the final HUD-1.
- 7 A: Journal entries must be entered in 7 days and kept for 5 years.
- 8 B: All licensees must keep records for 5 years.
- 9 D: Annual fees cover the main office and 1 branch; additional branches are 350 per branch.
- 10 A: The Buying Your Home Booklet must be given within 3 days per RESPA.
- 11 A: The servicing and discloser statement (% or loan sold vs. serviced) is required at application. The notice of transfer and servicing rights is required to be given 15 days prior by the new lender and 30 days by the old lender.
- 12 A: The collection of PITI, escrow analysis, and notice of transfer servicing rights are all functions of the servicing process as per RESPA.
- 13 C: Borrowers can seek legal action per GAFLA. Unintentional violations can be remedied by the lender within 90 days.
- 14 B: GAFLA is based on FNMA conforming loan, and for principal residence (1-4 units).
- 15 C: GAFLA prohibits the origination of high cost loans within 5 years, unless there's a tangible benefit to the borrower.

16 D:Only " natural persons" can 5 or fewer loans without licensure.

17 B:Nautral persons can originate up to 5 mortgage loans without licensure.

18 C:Non-profits are subject to licensure if acting as a licensee; buyers(grantees) are not.

19 B:GFE, along with Foreclosure disclosure and MB contract are required at application.

20 B:Tangible Benefits worksheet specifically determines whether flipping occurs or not.