

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Commissioner of Banks

RULE CITATION: 04 NCAC 03K .0404

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
 - Lack of statutory authority
 - Unclear or ambiguous
- X Unnecessary
 - Failure to comply with the APA
- Extend the period of review

COMMENT:

Staff recommends objection to this Rule because it repeats the contents of another Rule as proposed for amendment.

In the proposed amendment, Rule 04 NCAC 03K .0203(a) states that NC SAFE Act authorized lenders are required to notify the Commissioner within 30 days of a material change. In Paragraph (b) of that Rule, "material change" is defined to include "cessation of reverse mortgage lending activities."

This Rule proposes to state, in its entirety:

An NC SAFE Act authorized lender shall notify the Commissioner in writing of its decision to cease operations as a reverse mortgage lender in this State within 30 days of such decision.

Therefore, the contents of this Rule would simply repeat another rule. In determining necessity, the Commission is charged by G.S. 150B-21.9(a)(3) to consider the following:

- (a) Standards. – The Commission must determine whether a rule meets all of the following criteria:

Amanda J. Reeder
Commission Counsel
Issued July 10, 2018

- (3) It is reasonably necessary to implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency. The Commission shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed.

Staff believes that as the contents would be addressed in another rule, this Rule is not necessary and recommends objection.

Amanda J. Reeder
Commission Counsel
Issued July 10, 2018

Permanent Amendment for Publication in the NCAC

1 04 NCAC 03K .0404 is readopted as published in 32-19 NCR 1836 as follows:
2

3 **04 NCAC 03K .0404 WITHDRAWAL/TERMINATION OF AUTHORIZATION AS REVERSE MTG.**
4 **LENDER**

5 ~~(a)~~ An NC SAFE Act authorized lender shall notify the Commissioner in writing of its decision to cease operations
6 as a reverse mortgage lender in this State within 30 days of such decision.

7 ~~(b)~~ ~~An authorized lender shall surrender its Certificate of Authorization to the Commissioner no later than 30 days~~
8 ~~after it has ceased operations in this State or upon revocation, temporarily or permanently, of the reverse mortgage~~
9 ~~lender's authorization.~~

10 ~~(c)~~ ~~Failure to comply may result in a fine to the principal officers, partners, directors, controlling persons, pursuant~~
11 ~~to G.S. 53-271.~~

12

13 *History Note: Authority G.S. 53-259; 53-271;*

14 *Eff. January 1, ~~1995~~; 1995;*

15 *Readopted Eff. August 1, 2018.*