

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: All rules submitted

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On the Submission for Permanent Rule form, Box 1, confirm that the correct agency promulgated all of the Rules that were within its authority. These rules were published under the Banking Commission in the NC Register. However, many of these Rules are under the Commissioner.*

*Also on the form, in Box 6, please confirm that the hearing was held on Thursday, May 3, 2018 (as noticed in the Register) and not Saturday, May 5.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03E .0101

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 8, will this not include the contents of G.S. 53-169?*

*In the History Note, line 26, why are you citing to G.S. 53-171?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03E .0101 is readopted with changes as published in 32-19 NCR 1826 as follows:  
2

### 3 **04 NCAC 03E .0101 APPLICATION**

4 (a) ~~No person shall make loans under the provisions of the North Carolina Consumer Finance Act without first~~  
5 ~~obtaining a license from the Commissioner of Banks.~~ The application for a consumer finance license shall ~~contain a~~  
6 ~~request for a license to operate a business under the North Carolina Consumer Finance Act, incorporate all statutory~~  
7 ~~requirements and criteria, and include payment of the statutory fee.~~ include information necessary to determine  
8 whether an applicant is qualified to hold a consumer finance license pursuant to G.S. 53-168(a). A copy of the  
9 application may be obtained from the agency's website located at <https://www.nccob.org>.

10 ~~The form shall be obtained from and filed with:~~

11  
12 Office of the Commissioner of Banks  
13 316 West Edenton Street  
14 4309 Mail Service Center  
15 Raleigh, North Carolina 27699-4309.

16 (b) Upon receipt of an application for a consumer finance license, the Commissioner of Banks shall give written  
17 notice of the application to all ~~licensees operating within the community proposed to be served as described in the~~  
18 ~~application.~~ licensees by electronic mail. ~~Where a licensee holds two or more licenses the notification is to be~~  
19 ~~mailed [provided] to the home office of such [the] licensee.~~ The notification may be by copy of acknowledgment to  
20 the applicant.

21 (c) Following an investigation of the application pursuant to G.S. 53-168, the Commissioner of Banks shall decide  
22 as to: either approve or deny the application.

23 (1) ~~approval of the application;~~ [or]

24 (2) ~~denial of the application.~~

25  
26 *History Note:* Authority ~~G.S. 53-92; 53-95; 53-104; [53C-2-1; 53C-2;]~~53-168; ~~53-169; 53-170; 53-171;~~  
27 ~~53-185; 150B-21.2;~~  
28 *Eff. February 1, 1976;*  
29 *Amended Eff. September 1, 2006; January 1, 1993; August 1, 1978. 1978;*  
30 *Readopted Eff. August 1, 2018.*

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03E .0102 is repealed through readoption as published in 32:19 NCR 1826 as follows:

2

3 **04 NCAC 03E .0102 APPROVAL**

4

5 *History Note: Authority G.S. 53-92; 53-95; 53-104; 53-168; 58-169; 53-185; 53-188;*

6 *Eff. February 1, 1976;*

7 *Amended Eff. June 1, 1995; August 1, ~~1978~~, 1978;*

8 *Repealed Eff. August 1, 2018.*

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03E .0201 is repealed through readoption as published in 32:19 NCR 1826 as follows:

2

3 **04 NCAC 03E .0201 OPERATION OF OTHER BUSINESS IN SAME OFFICE**

4

5 *History Note: Authority G.S. 53-92; 53-122(3); 53-168; 53-172; 53-185; 150B-21.2;*

6 *Eff. February 1, 1976;*

7 *Amended Eff. September 1, 2006; January 1, ~~1993~~, 1993;*

8 *Repealed Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03E .0204

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 7, please underline the addition of "assignment,"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03E .0204 is readopted as published in 32-19 NCR 1826 as follows:  
2

### 3 **04 NCAC 03E .0204 TRANSFER OF LICENSE AND CHANGE OF LOCATION**

4 (a) ~~Transfer or assignment. Before a licensee may transfer or assign its license to another entity, the licensee shall~~  
5 ~~apply to the Commissioner of Banks for authority to do so. Request~~ Requests to transfer or assign a license shall be  
6 ~~by letter which shall set forth~~ contain the name, ~~address~~ address, and telephone number of the proposed transferee or  
7 assignee, the reasons for the transfer or ~~assignment~~ assignment, and the date ~~upon which~~ that the licensee proposes  
8 to make the transfer or assignment. ~~The request letter shall also be accompanied by a fee of one hundred dollars~~  
9 ~~(\$100.00) payable to the Commissioner of Banks for each license proposed for transfer or assignment together with~~  
10 ~~written acknowledgement of the proposed transaction by the transferee or assignee. In reviewing an application for~~  
11 ~~transfer or assignment, the Commissioner of Banks shall consider whether a proposed transfer or assignment meets~~  
12 ~~the requirements of G.S. 53-168(a). Transfer or assignments of a license to anyone other than existing licensees will~~  
13 ~~shall~~ not be approved. If the request is approved, the licensee shall surrender to the Commissioner of Banks its  
14 consumer finance license for reissuance to the transferee or assignee.

15 (b) ~~Change of Location. Prior to any change in the business location of a licensee, the licensee shall apply to the~~  
16 ~~Commissioner of Banks for authority to do so. Banks. In reviewing an application for a change of location, the~~  
17 ~~Commissioner of Banks shall consider whether a proposed change of location meets the requirements of G.S. 53-~~  
18 ~~168(a). The request shall be by letter setting forth the address of the new location and shall be accompanied by a fee~~  
19 ~~of twenty five dollars (\$25.00) payable to the Commissioner of Banks. If the request is approved, the licensee shall~~  
20 submit to the Commissioner of Banks its license for amendment.

21

22 *History Note: Authority G.S. 53-122(3); 53-168(e); 53-170(a); ~~150B-21.2;~~*

23 *Eff. January 1, ~~1993~~; 1993;*

24 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03E .0302

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On line 6, what are these "various schedules"?*

*On line 7, insert a comma after "licensee:"*

*On line 8, what is an "internal" website? Are you saying only licensees may access it?*

*Also on line 8, insert a comma after "licensees"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03E .0302 is readopted as published in 32-19 NCR 1826 as follows:  
2

### 3 **04 NCAC 03E .0302 ANNUAL REPORT**

4 Each licensee under the North Carolina Consumer Finance Act, on a form provided by the Office of the  
5 Commissioner of Banks, shall file an annual report with the Commissioner of Banks on or before March 31 each  
6 year. The annual report form shall contain various schedules ~~which that~~ reflect the financial condition of the  
7 licensee as well as the results of its operations. The form ~~along with necessary and~~ instructions ~~relative to its~~  
8 ~~execution~~ shall be obtained ~~from~~ and filed ~~with~~: online through the agency's internal website for licensees  
9 <https://www.nccob.org/online.aspx>.

10 Office of the Commissioner of Banks  
11 316 West Edenton Street  
12 4309 Mail Service Center  
13 Raleigh, North Carolina 27699-4309.

14  
15 *History Note: Authority G.S. ~~53-92; 53-184(b); 53-185; 150B-21.1;~~*  
16 *Eff. February 1, 1976;*  
17 *Amended Eff. September 1, 2006; January 1, 1993; September 26, ~~1979~~. 1979;*  
18 *Readopted Eff. August 1, 2018.*

## Permanent Repeal of Consecutive Rules for Publication in the NCAC

1 04 NCAC 03E .0401 - .0402 are repealed through readoption as published in 32:19 NCR 1826 as follows:

2

3 **04 NCAC 03E .0401 EXAMINATION**

4 **04 NCAC 03E .0402 REPORTS OF EXAMINATION**

5

6 *History Note: Authority G.S. 53-92;53-99; 53-184; 53-185;*

7 *Eff. February 1, 1976.*

8 *Repealed Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03E .0601

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On line 12, considering what you are adding in Items 8-10, should it state "All books, records, and fees...?"*

*Also, on line 12, you state "these Rules" Do you mean "This Rule"? If not, what other rules are you referring to?*

*In Item (1), line 16, should this state "shall be recorded in a cash...?"*

*In Item (2), line 24, posted where?*

*In Sub-Item (3)(a), Page 2, line 4, what is "indirectly"? Is this by operation of law? Does your regulated public know what this means?*

*In Sub-Item (3)(d), line 8, is "the date of loan" the date the loan was made?*

*In Sub-Item (3)(g), line 11, simply remove the underlining from the comma after "~~principal~~" Since you published it correctly, you do not need to show it as a change. Simply do it.*

*In Sub-Item (3)(m), line 20, I think you meant to retain "of"*

*Also, acknowledgement of receipt by whom?*

*In Sub-Item (3)(n), to ensure clarity, consider stating on line 22:*

*(n) "the contract interest rate and the annual percentage rate computed under 12 CFR Part 226 (Regulation Z), if the rates are different. Regulation Z is hereby incorporated by reference...."*

*In Item (5), consider stating on lines 35-36 and Page 3:*

*... in a conspicuous manner: "This loan is... Statutes." For the purposes of this Rule, "conspicuous" means the term as defined in G.S. 25-1-201(b).*

*On Page 3, delete the blank line space between lines 2 and 3 and lines 4 and 5.*

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

*In Sub-Item (6)(c), line 9, will the determination of what documents are necessary be entirely up to the licensee? If not, then more guidance needs to be in Rule as to what they need.*

*In Part (6)(c)(iv), line 14, consider inserting a “the” before “suit” to be consistent with (6)(c)(v).*

*In Part (6)(c)(viii), what do you mean by “disposition” Are you discussing whether it was appealed? Because this only addresses final judgments, so I’m not sure what you mean here.*

*In Sub-Item (8)(b), Page 4, line 16, end the sentence after “payment” Then state “However, ...”*

*On line 16 so that I’m clear – you are allowing more than one late fee if each late fee is for a different installment payment? This is to ensure consistency with G.S. 53-177(b)(2)?*

**§ 53-177. Fees.**

(b) Late Fees. -

(1) A licensee may charge a late payment fee for any payment which remains past due for 10 days or more after the due date.

(2) No licensee may charge a late payment fee in an amount greater than fifteen dollars (\$15.00) nor charge a late payment fee more than once with respect to a single late payment.

(3) If a late payment fee has been once imposed with respect to a particular late payment, no such fee shall be imposed with respect to any future payment which would have been timely and sufficient but for the previous default.

*On line 18, replace “which” with “that”*

*In Item (9), line 33, replace “do” with “shall”*

*In Item (10), Page 5, line 6, replace “04 NCAC 03E .0601(3)(j)” with “Sub-Item (3)(j) of this Rule.” Since this is how you published it, you do not need to show it as a change – simply do it.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03E .0601 is readopted with changes as published in 32-19 NCR 1827 as follows:

2  
3 **04 NCAC 03E .0601** **BOOKS AND RECORDS** **BOOKS, RECORDS, AND APPLICATION OF FEES**

4 Each consumer finance office licensed by the Commissioner of Banks shall keep the following books and  
5 accounting records. Except as may be permitted by G.S. 53-184(a), these records shall be maintained in each office  
6 and be readily available to the Commissioner of Banks or his or her authorized agent. ~~No books or records of the~~  
7 ~~licensee shall show any account or reflect any transaction other than those~~ Licensees shall maintain separate loan  
8 ledgers and accounts directly related to the making and collecting of loans within the provisions of the Consumer  
9 Finance Act. ~~Act, including~~ Where where a licensee is also an installment paper dealer, ~~completely separate books~~  
10 ~~and records shall be maintained, including for general ledger purposes a separate cash account.~~ dealer. Allocation of  
11 expenses shall be made monthly according to appropriate and reasonable generally accepted accounting principles.  
12 All books and records covered by these Rules ~~must~~ shall be retained for a period of not less than three years after the  
13 last transaction:

- 14 (1) Cash Transaction Journal. ~~The cash transaction journal shall be the book of original entry in~~  
15 ~~which all~~ All transactions of receipts and disbursements of any nature or amount whatsoever shall  
16 be ~~itemized.~~ in a cash transaction journal, which shall be the book of original entry. Each  
17 transaction made in connection with a loan shall be identified with the loan by the name or  
18 account number of the borrower and shall clearly define the nature of each charge, collection, or  
19 refund made in connection with such the loan. All entries shall ~~be made as of~~ [reflect] state the  
20 exact date the transactions occur.
- 21 (2) General Ledger. The general ledger shall be double entry, showing in ~~full~~ detail the total of assets,  
22 liabilities, capital, income, and expenses. Each account shall be clearly and appropriately  
23 [separately and distinctly] individually designated. No net or "wash" entries shall be made to any  
24 account. The general ledger shall be posted at least once each month and such the posting shall  
25 include all transactions through the last business day of the month. The actual posting ~~must~~ shall  
26 be completed by the ~~20th~~ 30th day of each ensuing month for the previous month's business. ~~In~~  
27 ~~instances where an organization operates two or more offices, the general ledger may be~~  
28 ~~maintained in a central accounting office of the organization, provided a trial balance shall be~~  
29 ~~made as of the last business day of each month and a copy placed on file in each office not later~~  
30 ~~than the last business day of the following month.~~ Each debit or credit entry appearing on the  
31 general ledger each month shall appear on the trial balance. A detailed licensee shall maintain a  
32 description of each general ledger entry originating outside of a local office and not reflected on  
33 the cash book of that office shall be on file in each office to support such entries appearing on the  
34 general ledger. This shall include entry, including adjusting and closing entries. If any account on  
35 the general ledger does not agree with the corresponding account on the annual report to the  
36 Commissioner of Banks, a supplement to the annual report shall be furnished ~~which~~ that  
37 reconciles or explains any differences.

- 1 (3) Individual Account Record. A separate account record shall be maintained for each loan made.  
2 Each account record shall provide the following information:
- 3 (a) the name and address of ~~borrower spouse's name,~~ borrower(s) and the name of any other  
4 person obligated directly or indirectly on the loan;
  - 5 (b) the cross reference to other loans of the borrower, ~~or spouse, or~~ endorser, guarantor, ~~or~~  
6 surety, or to any joint obligation of the borrower;
  - 7 (c) the account number;
  - 8 (d) the date of loan and maturity;
  - 9 (e) the length of contract;
  - 10 (f) the cash advance, finance charge, number of ~~payments~~ payments, and amount of each;
  - 11 (g) the date and amount of each payment, an allocation between ~~principal, and interest,~~  
12 principal, interest, and any fees authorized by statute for each payment, and the remaining  
13 loan balance after each payment;
  - 14 (h) a brief description of security;
  - 15 (i) the type of insurance, insurance origination fees, and amount of insurance premium for  
16 each coverage written;
  - 17 (j) the amount of recording fee or non-filing charges;
  - 18 (k) the amount of any other charge ~~whatsoever~~ made in connection with the loan;
  - 19 (l) the amount of unearned insurance premium refunded for each coverage written;
  - 20 (m) if refunds are paid by cash or check, an acknowledgment of receipt ~~of refund by signature~~  
21 ~~of borrower;~~ refund; and
  - 22 (n) the contract interest rate and the annual percentage rate computed under Regulation Z, 12  
23 C.F.R. Part 226 (Regulation Z) which is incorporated by reference and includes  
24 subsequent amendments, if different. A copy of the regulation may be obtained from the  
25 website free of charge at U. S. Government Publications Office website at  
26 <https://www.gpo.gov/fdsys/granule/CFR-2012-title12-vol3/CFR-2012-title12-vol3->  
27 part226.
- 28 (4) Index of Borrowers. Each office shall keep ~~an~~ a single report showing a cumulative index record  
29 ~~on which~~ of all loans to each individual, which shall be entered in order, showing order by date  
30 made, showing the account number, amount of loan, and date of cancellation. ~~This record shall be~~  
31 ~~maintained on individual index cards or on the face of the borrower's individual file, "shuck,"~~  
32 ~~"jacket," or folder and shall be filed alphabetically or by account number, provided where the~~  
33 ~~account number is used an alphabetical cross index be available to the examiner.~~
- 34 (5) Loan Documents. ~~After January 1, 1994, loans~~ Loans made by a licensee shall on the loan  
35 contract contain the following statement printed in a conspicuous ~~manner;~~ manner, which, in this  
36 context, has the same meaning, as defined in G.S. 25-1-201(b): "This loan is regulated by the

1 provisions of the North Carolina Consumer Finance Act, located at Chapter 53, Articles 15 of the  
2 North Carolina General Statutes.”

3 (6) Judgments. When a loan has been reduced to final judgment, all of the following provisions shall  
4 be complied with:

- 5 (a) the individual account record maintained pursuant to Subpart Item (3) of this Rule shall  
6 clearly be designated a judgment account;
- 7 (b) payments received shall be identified and applied on the judgment account record;
- 8 (c) the licensee shall maintain ~~in the office from which the judgment account originated~~ a  
9 copy of the final judgment and any other court documents ~~which that~~ are necessary to  
10 disclose the following information:
- 11 (i) the final judgment date;
- 12 (ii) the name of the licensee;
- 13 (iii) the final judgment debtor's name;
- 14 (iv) the date suit was filed;
- 15 (v) the nature of the suit;
- 16 (vi) the name and location of the court;
- 17 (vii) the amount of the final judgment, specifying principal, interest charges, any fees  
18 authorized by statute, and court costs; and
- 19 (viii) the disposition of the case;
- 20 (d) a licensee ~~which that~~ charges a borrower for court costs it incurred on a final judgment  
21 account shall itemize such these costs on the individual account record and retain a  
22 receipt or other document substantiating showing the costs; and
- 23 (e) a licensee shall retain a copy of the sheriff's return of execution issued when property is  
24 sold pursuant to a final judgment.

25 (7) Repossessions. When property is taken in accordance with the terms of a security agreement or  
26 agreement, by judicial process process, or abandonment, the individual account record shall be  
27 clearly designated as a repossession account and shall state when and how possession of the  
28 security was obtained and shall identify the proceeds of the sale of the property. The licensee shall  
29 also retain ~~in the office in which the repossession account originated~~, all of the following:

- 30 (a) a copy of any agreement entered into with the borrower with respect to the terms of  
31 surrender;
- 32 (b) a copy of the notice of sale, together with evidence proof of mailing or personal delivery;
- 33 (c) an inventory of the property taken, unless it otherwise appears in detail on the notice of  
34 sale;
- 35 (d) a signed bill of sale or a statement from the purchasers, or from the auctioneer if the sale  
36 was public, describing the collateral purchased and showing the amounts paid;

- 1 (e) evidence that the sale took place on the date set forth in the notice of sale, including a  
2 notice of any bids received;
- 3 (f) a copy of a detailed final accounting sent to the borrower borrower, setting forth the  
4 disposition of the proceeds of sale and the principal balance due, if any, on the account;  
5 and
- 6 (g) paid receipts evidencing showing the costs incurred in the repossession and sale of the  
7 security which that have been charged to the borrower.
- 8 (8) ~~Insurance Records. A licensee shall maintain in each office where a loan account originated, a~~  
9 ~~record of any claims paid under insurance written in connection with a consumer finance loan.~~  
10 The records shall include: Late Fees.
- 11 (a) ~~the loan number and name of debtor; Lenders may apply a borrower's most recent~~  
12 ~~payment to the oldest installment due;~~
- 13 (b) ~~description of the insurance claim, i.e., whether death claim, property damage, or claim~~  
14 ~~for benefits under accident and health insurance; and A lender may not collect more than~~  
15 ~~one late fee from any full or partial payment made toward a particular scheduled~~  
16 ~~installment payment; however, a lender may collect more than one late fee from any~~  
17 ~~payment made toward more than one installment payment, provided the number of late~~  
18 ~~fees collected does not exceed the number of different installment payments which were~~  
19 ~~past due for 10 days or more and to which such payment was applied.~~
- 20 (c) ~~in the case of claims under credit life insurance, a copy of the certified death certificate. If~~  
21 ~~a lender declares a borrower in default and accelerates a loan, the lender may collect a~~  
22 ~~late fee for each installment payment that was, as of the date of acceleration, [is] past due~~  
23 ~~for 10 days or more. A lender may not collect a late fee for any installment that becomes~~  
24 ~~due solely because the lender has declared a borrower in default and accelerated a loan.~~
- 25 (d) ~~If a lender refinances a loan, a lender may include in the amount financed late fees for~~  
26 ~~each installment payment that was, as of the date of refinancing, [is] past due for 10 days~~  
27 ~~or more.~~
- 28 (e) ~~If a loan reaches maturity, a lender may include in the final balance owed a late fee for~~  
29 ~~each installment payment that remains past due for 10 days or more.~~
- 30 (9) Deferral Charges. For any loan made on or after July 1, 2013, licensees may assess a deferral  
31 charge [of one and one-half percent (1½%)] for each month of the remaining loan term on each  
32 installment owed after the date of deferral. Licensees may charge a late fee on deferred payments  
33 that remain past due for 10 days or more after the agreed upon due date. Deferrals do not alter the  
34 maturity date of the loan contract, even where a payment is deferred beyond maturity.
- 35 (10) ELT Fees. Licensees who are required by the North Carolina Department of Motor Vehicles  
36 (NCDMV) to use its electronic lien title (ELT) system to file or record the licensee's security  
37 interest in a vehicle may collect from borrowers [those] the fees [actually] charged by NCDMV.

1 ELT vendors, and service provider vendors to use the ELT [system.] at a rate prescribed by 20-  
2 58.4A(b)(3). When a borrower takes out a junior lien on a vehicle pledged as security, licensees  
3 who are senior lienholders with an already perfected lien may collect from borrowers the fees  
4 charged to the licensee by NCDMV, ELT vendors, and service provider vendors, provided the  
5 licensee has disclosed the potential for the fee at origination of the loan. Licensees shall account  
6 for ELT fees as they account for other recording fees as described in 04 NCAC 03E .0601 (3)(j).

7 *History Note:* Authority G.S. ~~53-92; 53-104; 20-58.4A; 53-177; 53-184; 53-185; 150B-21.2; 53C-2-1; 53C-2-~~  
8 ~~2.~~

9 *Eff. February 1, 1976;*

10 *Amended Eff. January 1, 1993- 1993;*

11 *Readopted Eff. August 1, 2018.*

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03E .0602 is repealed through readoption as published in 32:19 NCR 1829 as follows:

2

3 **04 NCAC 03E .0602**      **COLLECTION PRACTICES**

4

5 *History Note:*      *Authority G.S. 53C-2-1; 53C-2-2; 53-180; 53-185;*

6                              *Eff. February 1, ~~1976~~ 1976;*

7                              *Repealed Eff. August 1, 2018.*

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03F .0201 is repealed through readoption as published in 32:19 NCR 1829 as follows:

2

3 **04 NCAC 03F .0201      DEFINITIONS**

4

5 *History Note:*      *Authority G.S. 53-208.27;*

6                              *Eff. February 1, 1993;*

7                              *Amended Eff. November 1, 2013; September 1, 2006; June 1, ~~1995~~; 1995;*

8                              *Repealed Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03F .0301

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On line 12, the application will be deemed incomplete if it doesn't contain the information required by G.S. 53-208.45, correct?*

*Also on line 12, you state that the application will be deemed withdrawn. However, G.S. 53-208.50(a) states it will be abandoned. Why are you using a different term?*

**§ 53-208.50. Issuance of license.**

(a) Upon receipt of a complete license application, as set forth under G.S. 53-208.45, the Commissioner shall investigate the financial condition and responsibility, financial and business experience, the character and general fitness of the applicant, and any other matters deemed relevant by the Commissioner. The Commissioner may require additional information and may require the amendment of the application in the course of the investigation. **An applicant's failure to furnish all required information within 30 days after filing the application or within 30 days of a request by the Commissioner for additional information may be considered an abandonment** of the application. In the course of the investigation, the Commissioner may conduct an on-site examination of the applicant, the reasonable cost of which shall be borne by the applicant.

*And I take it that you need this Rule to clarify that the Banking Commissioner shall deem every incomplete application abandoned/withdrawn?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03F .0301 is readopted with changes as published in 32-19 NCR 1829 as follows:  
2

3 **04 NCAC 03F .0301      APPLICATION FOR A LICENSE INCOMPLETE APPLICATIONS**

4 ~~(a) Any person who wishes to sell or issue checks in this State pursuant to the Money Transmitters Act must first~~  
5 ~~obtain a license issued by the Commissioner. An application for a license can be obtained from and shall be filed~~  
6 ~~pursuant to Rule .0201(b) of this Subchapter.~~

7 ~~(b) An application for a Money Transmitters' license shall include information required by G.S. 53-208.5 through~~  
8 ~~G.S. 53-208.10 of Chapter 53, Article 16A. The application must be submitted on a form provided by the~~  
9 ~~Commissioner.~~

10 ~~(c) In addition to the documents and information listed in Paragraph (b) of this Rule, the Commissioner may require~~  
11 ~~additional information necessary to complete an investigation pursuant to G.S. 53-208.10.~~

12 ~~(d) Incomplete application files shall be closed and deemed ~~denied~~ withdrawn without prejudice when the applicant~~  
13 ~~has not submitted information requested by the Commissioner within 30 days of such ~~the~~ request.~~

14

15 *History Note: Authority G.S. 53-208.3; 53-208.27; G.S. 53-208.45; G.S. 53-208.60;*

16 *Eff. February 1, 1993;*

17 *Amended Eff. November 1, ~~2013~~. 2013;*

18 *Readopted August 1, 2018.*

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03F .0402 is repealed through readoption as published in 32:19 NCR 1829 as follows:

2

3 **04 NCAC 03F .0402 SURRENDER OF LICENSE**

4

5 *History Note: Authority G.S. 53-208.27;*

6 *Eff. February 1, ~~1993~~ 1993;*

7 *Repealed Eff. August 1, 2018.*

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03F .0501 is repealed through readoption as published in 32:19 NCR 1829 as follows:

2

3 **04 NCAC 03F .0501**      **GENERALLY ACCEPTED ACCOUNTING PRINCIPLES**

4

5 *History Note:*      *Authority G.S. 53-208.27;*

6                              *Eff. February 1, ~~1993~~ 1993;*

7                              *Repealed Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03F .0504 - .0509

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*The combined History Note is missing an amended effective date. It should look like this:*

*History Note: Authority G.S. 53-208.5; 53-208.8; 53-208.27;  
Eff. February 1, 1993;  
Amended Eff. November 1, 2013; June 1, 1995;  
Repealed Eff. August 1, 2018.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Repeal of Consecutive Rules for Publication in the NCAC

1 04 NCAC 03F .0504 - .0509 are repealed through readoption as published in 32:19 NCR 1829 as follows:  
2

- 3 **04 NCAC 03F .0504      AGENT ACTIVITY REPORTS**
- 4 **04 NCAC 03F .0505      AMENDMENTS TO APPLICATION**
- 5 **04 NCAC 03F .0506      REVOCATION OR CANCELLATION OF SURETY BOND**
- 6 **04 NCAC 03F .0507      CEASING OPERATIONS**
- 7 **04 NCAC 03F .0508      IMPAIRMENT OF MINIMUM NET WORTH**
- 8 **04 NCAC 03F .0509      DISHONOR OR DEFAULT IN PAYMENT INSTRUMENT**

9  
10 *History Note:*      *Authority G.S. 53-208.5; 53-208.8; 53-208.27;*

11                              *Eff. February 1, 1993;*

12                              *Amended Eff. June 1, ~~1995~~, 1995;*

13                              *Repealed Eff. August 1, 2018.*

## Permanent Repeal of Consecutive Rules for Publication in the NCAC

1 04 NCAC 03F .0601 - .0602 are repealed through readoption as published in 32:19 NCR 1829 as follows:

2

3 **04 NCAC 03F .0601      RECORD AND BOOKKEEPING REQUIREMENTS**

4 **04 NCAC 03F .0602      EXAMINATION FEE**

5

6 *History Note:      Authority 53-208.15; 53-208.16; 53-208.20; 53-208.27; 53-282(c);*

7 *Eff. February 1, 1993;*

8 *Amended Eff. November 1, ~~2013~~ 2013;*

9 *Repealed Eff. August 1, 2018.*

## Permanent Repeal of Consecutive Rules for Publication in the NCAC

1 04 NCAC 03H .0102 - .0103 are repealed through readoption as published in 32:19 NCR 1830 as follows:

2

3 **04 NCAC 03H .0102 REGIONAL BANK HOLDING COMPANY ACQUISITIONS**

4 **04 NCAC 03H .0103 BANK HOLDING COMPANY REGISTRATION**

5

6 *History Note: Authority G.S. 53-211; 53-214(b); 52-227; 53-230*

7 *Eff. May 1, 1992;*

8 *Amended Eff. September 1, 2006; April 1, 1999.*

9 *Repealed Eff: August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03J .0101

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (b), Page 2, line 6, consider using the language you proposed in Rule 03E .0202 "shall be obtained from and filed online through..."*

*In the History Note, why are you citing to G.S. 53-248?*

*Also in the History Note, please remove the citation to G.S. 150B-21.2.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

04 NCAC 03J .0101 is readopted with changes as published in 32-19 NCR 1830 as follows:

### 04 NCAC 03J .0101 DEFINITIONS; FILINGS

(a) [Terms defined in G.S. 53-246 have the same meaning as in this Subchapter.] As used in this Subchapter, unless the context clearly requires otherwise: In addition to the definitions in G.S. 53, Article 20, for the purposes of this Subchapter the following definitions apply:

- (1) "Applicant" shall have the same meaning as set forth in G.S. 53-246(1).
- (2) "Commission" shall have the same meaning as set forth in G.S. 53-246(2).
- (3) "Commissioner" shall have the same meaning as set forth in G.S. 53-246(3).
- (4) (1) "Controlling person" ~~shall mean~~ means any person as defined in G.S. 53-246(7) who owns or holds with the power to vote 10% or more of the equity securities of the registrant, or who has the power to direct the management and policy of the registrant.
- (5) "Creditor" shall have the same meaning as set forth in G.S. 53-246(4).
- (6) (2) "Creditor loan fee" ~~shall mean~~ means the fee charges, fees, or other consideration charged or imposed by the creditor ~~which funds the refund anticipation loan in consideration for funding the refund anticipation loan.~~ for the making of a refund anticipation loan.
- (7) "Debtor" shall have the same meaning as set forth in G.S. 53-246(5).
- (8) (3) "Electronic filing fee" ~~shall mean~~ means the fee imposed by the facilitator in consideration for the electronic filing of a tax return.
- (9) "Executive officer" shall have the same meaning as such term is defined in Regulation "O" promulgated by the Board of Governors of the Federal Reserve System, and codified in the Code of Federal Regulations at Title 12, Chapter II, Part 215.
- (10) "Facilitator" shall have the same meaning as set forth in G.S. 53-246(6).
- (11) (4) "Facilitator loan fee" ~~shall mean~~ means the fee charges, fees, or other consideration charged or imposed by the facilitator ~~in consideration for assisting the debtor in obtaining the refund anticipation loan.~~ for the making of a refund anticipation loan.
- (12) "Income tax return preparation fee" shall mean the fee imposed by a person in consideration for preparation of the debtor's tax returns.
- (13) "Loan related fee" shall mean any fee other than a creditor fee, facilitator loan fee or electronic filing fee paid by the debtor for transmittal to third persons who provide services in connection with the refund anticipation loan.
- (14) "Person" shall have the same meaning as set forth in G.S. 53-246(7).
- (15) "Refund anticipation loan" shall have the same meaning as set forth in G.S. 53-246(8).
- (16) [(5)] "Refund Anticipation Loan Act" shall mean [means] the Refund Anticipation Loan Act codified at Chapter 53, Article 20 of the North Carolina General Statutes (G.S. 53-245, et seq.).
- (17) "Refund anticipation loan fee" shall have the same meaning as set forth in G.S. 53-246(9) and shall include a creditor fee, facilitator loan fee, and loan related fee as defined herein.
- (18) "Registrant" shall have the same meaning as set forth in G.S. 53-246(10).



REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03J .0201

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a)(2)(B), (C), and (D), where do these come from? Who issues them? Does your regulated public know? I note that you state in (a)(5) that the IRS will provide the information for that Subparagraph.*

*In (a)(7), line 28, (a)(8), line 32, (a)(9), line 34, delete the comma after "applicant"*

*In (a)(14), Page 2, line 12, replace "at ~~which~~ that" with "where"*

*What authority are you relying upon for Paragraph (b)?*

*On line 19, don't you mean that the applicant "may" submit a new application? You aren't requiring that they resubmit if they chose not to open the business, correct?*

*In the History Note, delete the citation to 150B-21.2.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

04 NCAC 03J .0201 is readopted with changes as published in 32-19 NCR 1831 as follows:

### 04 NCAC 03J .0201 APPLICATION FOR REGISTRATION AS A FACILITATOR

(a) ~~Any person who would like to engage in business as a facilitator pursuant to the Refund Anticipation Loan Act shall first be registered with the Commissioner, unless such person is exempt from registration pursuant to G.S. 53-247(c) or G.S. 53-254. An application for registration shall be obtained from the Commissioner and shall be filed pursuant to Rule .0101(b) of this Subchapter.~~

(b) (a) The application for registration as a facilitator shall include the following:

- (1) ~~A a~~ description of the applicant's organizational structure, ~~including the name, business and residence address~~ address, and business telephone number of the applicant, ~~its partners, executive officers, directors and the name of its~~ controlling persons;
- (2) ~~Copies~~ copies of the following documents, where applicable:
  - (A) ~~The the~~ applicant's Articles of Incorporation, Articles of Organization, or ~~general or limited~~ partnership agreement;
  - (B) ~~A a~~ Certificate of Existence or Certificate of Good Standing not more than 90 days old from the applicant's state of incorporation;
  - (C) ~~A a~~ Certificate of Authority to do business in this State; and
  - (D) ~~A a~~ copy of the applicant's Certificate of Assumed ~~Name~~; Name.
- (3) ~~A a~~ description of the applicant's operations, including the names and addresses of the ~~banks which lenders that~~ will fund refund anticipation loans to its customers, ~~and~~ the names and addresses of ~~transmitters~~ transmitters, and any other intermediary parties involved in the process of facilitating refund anticipation loans;
- (4) ~~A a~~ description of the business(es) in which the applicant is primarily engaged;
- (5) ~~The the~~ applicant's Electronic Filer Identification Number (EFIN) and Preparer Tax Identification Number (PTIN) as provided by the Internal Revenue Service;
- (6) ~~Proof~~ proof that the applicant has been accepted by the Internal Revenue Service to participate in its electronic filing program for the present tax year;
- (7) ~~Disclosure~~ disclosure of any civil judgments entered against the applicant, ~~its partners, executive officers, directors or its~~ controlling persons during the past 10 years ~~which that~~ have remained are partially or wholly unpaid;
- (8) ~~Disclosure~~ disclosure of any civil proceedings pending against or civil judgments entered against the applicant, ~~its partners, executive officers, directors or its~~ controlling persons ~~which that~~ involve fraud or dishonesty;
- (9) ~~Disclosure~~ disclosure of any felony convictions entered against the applicant, ~~its partners, executive officers, directors or its~~ controlling persons;
- (10) ~~Disclosure~~ disclosure of any misdemeanor convictions entered against the applicant ~~its partners, executive officers, directors or its~~ controlling persons ~~which that~~ involve theft, fraud, or dishonesty;

- 1 (11) Disclosure disclosure of any enforcement proceeding brought against the applicant ~~its partners,~~  
2 ~~executive officers, directors~~ or its controlling persons by any agency or department of this State,  
3 the Federal government or any other state ~~which~~ that involves the revocation or suspension of any  
4 business license;
- 5 (12) Disclosure disclosure of whether the applicant, ~~any partner, executive officer, director,~~ or its  
6 controlling ~~person has~~ persons have been denied acceptance in or suspended from the Electronic  
7 Filing Program of the Internal Revenue Service;
- 8 (13) Disclosure disclosure of whether the applicant is, or has ever been, the subject of the following  
9 proceedings: bankruptcy, assignment for the benefit of creditors, receivership, conservatorship, or  
10 similar proceeding; and
- 11 (14) ~~Three business references, including one bank reference;~~
- 12 ~~(15)~~ (14) The the address of each office in this State at ~~which~~ that the applicant intends to facilitate refund  
13 anticipation loans.

14 ~~(e) The application for registration as a facilitator shall be accompanied by a fee made payable to the Commissioner~~  
15 ~~in the amount set forth in G.S. 53-248(a).~~

16 ~~(d) The application shall be in writing and verified.~~

17 ~~(e) (b) Incomplete application files applications shall be closed and the application deemed denied without prejudice~~  
18 ~~withdrawn~~ when the applicant has not submitted information requested by the Commissioner within 30 days of  
19 request. If an application is withdrawn, the applicant shall submit a new application and pay all fees associated with  
20 the application.

21

22 *History Note: Authority G.S. 53-245(b); 53-247(a); 53-248(a); 53-253; 150B-21.2;*

23 *Eff. September 1, 1993. 1993;*

24 *Readopted Eff. August 1, 2018.*

## Permanent Repeal of Consecutive Rules for Publication in the NCAC

1 04 NCAC 03J .0202 - .0203 are repealed through readoption as published in 32:19 NCR 1831 as follows:

2

3 **04 NCAC 03J .0202**      **ISSUANCE OF A CERTIFICATE OF REGISTRATION**

4 **04 NCAC 03J .0203**      **EXPIRATION AND RENEWAL**

5

6 *History Note:*      *Authority G.S. 53-248(a); 53-248(b); 53-253; 150B-21.2;*

7                              *Eff. September 1, 1993;*

8                              *Repealed Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03J .0204

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a)(2), line 8, consider stating "pursuant to Subparagraph (a)(1) of this Rule and Rule .0305 of this Subchapter."*

*What authority are you relying upon for Paragraph (b)?*

*On line 15, don't you mean that the applicant "may" submit a new application? You aren't requiring that they resubmit if they chose not to open the business, correct?*

*In the History Note, delete the citation to 150B-21.2.*

*Also in the History Note, why are you citing to G.S. 53-248(a)? That applies to initial applications, not renewals.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03J .0204 is readopted as published in 32-19 NCR 1831 as follows:  
2

### 3 **04 NCAC 03J .0204 APPLICATION FOR RENEWAL OF CERTIFICATE OF REGISTRATION**

4 (a) The application for renewal of the Certificate of Registration shall include the following:

5 (1) ~~Where~~ where applicable, any amendments to the application for registration filed pursuant to Rule  
6 .0201 of this Subchapter; and

7 (2) ~~A~~ a written verification of the accuracy of the application for Certificate of Registration filed  
8 pursuant to Rule .0201 of this Subchapter and any amendments filed pursuant to Rules .0204(a)(1)  
9 and .0305 of this Subchapter.

10 ~~(b) The application for renewal of the Certificate of Registration shall be accompanied by a fee made payable to the~~  
11 ~~Commissioner in the amount set forth in G.S. 53-248(b) for each office at which the registrant intends to facilitate~~  
12 ~~refund anticipation loans during the succeeding year.~~

13 ~~(c)~~ (b) Incomplete applications for renewal of the Certificate of Registration shall be closed and the application for  
14 renewal ~~deemed denied without prejudice~~ withdrawn when the registrant has not submitted information requested by  
15 the Commissioner within 30 days of ~~such~~ the request. If an application is withdrawn, the applicant shall submit a  
16 new application and pay all fees associated with the application.

17

18 *History Note: Authority G.S. 53-248(a),(b); 53-253; 150B-21.2;*

19 *Eff. September 1, 1993-1993;*

20 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03J .0205

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In Paragraph (b), line 25, please change "which" to "that"*

*In the History Note, delete the citation to 150B-21.2.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03J .0205 is readopted with changes as published in 32-19 NCR 1832 as follows:  
2

### 3 **04 NCAC 03J .0205 NONTRANSFERABILITY OF CERTIFICATE OF REGISTRATION**

4 (a) A Certificate of Registration shall be neither transferable nor assignable.

5 (b) ~~The circumstances under which the Commissioner shall deem a change in the registrant's organizational~~  
6 ~~structure to constitute a transfer or assignment of the Certificate of Registration shall include, but not be limited to,~~  
7 ~~the following:~~

8 (1) ~~If the registrant is a corporation:~~

9 (A) ~~A change in ownership of 50% or more of the registrant's stock;~~

10 (B) ~~The conversion of the corporation into a general or limited partnership or proprietorship;~~

11 (2) ~~If the registrant is a general or limited partnership:~~

12 (A) ~~A change in one of the registrant's general partners;~~

13 (B) ~~The conversion of the general partnership into a limited partnership, corporation or~~  
14 ~~proprietorship;~~

15 (C) ~~The conversion of the limited partnership into a general partnership, corporation or~~  
16 ~~proprietorship;~~

17 (3) ~~If the registrant is a proprietor:~~

18 (A) ~~The conversion of the proprietorship into a general or limited partnership or corporation;~~

19 (B) ~~The sale of all of the assets of the registrant's business to another person.~~

20 (e) (b) ~~Upon a change in organization~~ The Certificate of Registration shall become void if the registrant changes  
21 organizational [structure that may include a change] structure, such as to or from a sole proprietorship, partnership,  
22 limited partnership, general partnership, limited liability company, or [corporation] corporation, as set forth in  
23 Paragraph (b) of this Rule, the The new entity may apply for a Certificate of Registration shall become void and the  
24 registrant shall surrender its Certificate of Registration to the Commissioner within 30 days of such change. [void.]  
25 pursuant to Rule .0201 of this Section. If the entity which results from the change in the registrant's organization  
26 would like to engage in business as a facilitator in this State, it shall apply for a Certificate of Registration pursuant  
27 to Rule .0201 of this Section.  
28

29 *History Note: Authority G.S. 53-253; 150B-21.2;*

30 *Eff. September 1, 1993; 1993;*

31 *Readopted Eff. August 1, 2018.*

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03J .0301 is repealed through readoption as published in 32:19 NCR 1832 as follows:

2

3 **04 NCAC 03J .0301 CHECK CASHING SERVICES**

4

5 *History Note: Authority G.S. 53-250(5); 53-253; 150B-21.2;*

6 *Eff. September 1, 1993.*

7 *Repealed Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03J .0302

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a)(1) through (3), consider using articles to start the clauses, as you have done for the rest of the list.*

*What is the purpose of the sentence on lines 25-26, which states how the Rule will not be interpreted? Why do you need it?*

*Assuming you need to retain it, on line 26 it appears that you are missing language. Should it read "... one central office where all records..."*

*In (b), line 27, should this be "disbursements" (plural)?*

*On line 28, when will this request be made? During inspection or the renewal process?*

*In the History Note, delete the citation to 150B-21.2.*

*Also in the History Note, why are you citing to 53-249 and 53-250?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03J .0302 is readopted with changes as published in 32-19 NCR 1832 as follows:  
2

### 3 **04 NCAC 03J .0302 RECORD AND BOOKKEEPING REQUIREMENTS**

4 (a) A registrant shall maintain the following records with respect to each application for a refund anticipation loan  
5 in this ~~State, State:~~ These records shall be kept in an office or offices of the registrant in this State. This Rule shall  
6 not be interpreted to require a registrant to maintain one central office at which all records required herein are  
7 located:

- 8 (1) Name name of ~~applicant for a refund anticipation loan;~~ applicant;
- 9 (2) Social social security number of ~~applicant for a refund anticipation loan;~~ applicant;
- 10 (3) Date date of application;
- 11 (4) Disposition disposition of application, e.g., whether loan was funded, denied, etc.;
- 12 (5) The the gross amount of the refund anticipation loan;
- 13 (6) The the amount of the creditor fee;
- 14 (7) The the amount of the facilitator loan fee, if any;
- 15 (8) The the amount of the loan-related fees, if any;
- 16 (9) The the amount of the electronic filing fee;
- 17 (10) The the amount of refund anticipation loan proceeds disbursed by the registrant to the debtor;
- 18 (11) The the date on which refund anticipation loan proceeds were disbursed by the registrant to the  
19 debtor; and
- 20 (12) The the identity of the registrant's executive officer, partner or employee the individual  
21 originating the application for the refund anticipation ~~loan;~~ loan.
- 22 (13) The number, identity of drawer and amount of the check delivered to the debtor in payment of the  
23 proceeds of the refund anticipation loan;
- 24 (14) A copy of Internal Revenue Service Form No. 8453 or any successor Form.

25 These records shall be kept in an office or offices of the registrant in this State. This Rule shall not be interpreted to  
26 require a registrant to maintain one central office at that all records required are located.

27 (b) ~~An original (where the drawer is the registrant) or a copy~~ Evidence of all checks disbursement delivered by the  
28 registrant to each debtor in payment of the proceeds of the refund anticipation loan shall be available upon request  
29 by the Commissioner.

30 (c) ~~All records required by Paragraph (a) of this Rule may be maintained in any reasonable manner that the~~  
31 ~~registrant selects. Where applicable, the information required by Paragraph (a) of this Rule may be maintained by~~  
32 ~~the retention of copies of forms used to comply with state or federal statutes, rules and regulations.~~

33 (d) ~~All records required to be kept pursuant to Paragraph (a) of this Rule may be maintained in the form of magnetic~~  
34 ~~tape, magnetic disk or other form of computer, electronic or microfilm media. However, records kept in this manner~~  
35 ~~shall be convertible into clearly legible, tangible documents within 24 hours of request. This time period shall be~~  
36 ~~extended for an additional reasonable time by the Commissioner if the registrant demonstrates to the satisfaction of~~  
37 ~~the Commissioner that it cannot provide the records requested within 24 hours of request.~~

1 (c) All records required to be kept pursuant to Paragraph (a) of this Rule shall be kept for a period of at least  
2 three years.

3

4 *History Note: Authority G.S. 53-249; 53-250; 53-253; 150B-21.2;*

5 *Eff. September 1, ~~1993~~ 1993;*

6 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03J .0303

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On the Submission for the Permanent Filing form, please correct the name in Box 2 to match the name of the Rule.*

*In (c), I take it that (c)(1) and (2) address the "current refund anticipation loan fees" in the statute?*

**§ 53-249. Filing and posting of loan fees; disclosures.**

(c) Posting of Fee Schedule. Every registrant shall prominently display at each office where the registrant is facilitating refund anticipation loans a schedule showing the **current refund anticipation loan fees for refund anticipation loans facilitated at the office** and the current electronic filing fees for the electronic filing of the taxpayer's tax return. Every registrant shall also prominently display on each fee schedule a statement to the effect that the taxpayer may have the tax return filed electronically without also obtaining a refund anticipation loan. No registrant may facilitate a refund anticipation loan unless (i) the schedule required by this subsection is displayed and (ii) the refund anticipation loan fee actually charged is the same as the fee displayed on the schedule and the fee filed with the Commissioner pursuant to subsection (a).

*In the History Note, consider just referring to G.S. 59-249.*

*Also in the History Note, delete the citation to 150B-21.2.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03J .0303 is readopted as published in 32-19 NCR 1833 as follows:  
2

### 3 **04 NCAC 03J .0303 FILING AND POSTING OF FEE SCHEDULE**

4 (a) The fee schedule of refund anticipation loan fees required by G.S. 53-249(a) ~~shall be obtained from the~~  
5 ~~Commissioner and~~ shall be filed pursuant to Rule .0101(b) of this Subchapter.

6 (b) The fee schedule referenced in Paragraph (a) of this Rule shall include the following fees:

- 7 (1) ~~The~~ the creditor fee; and
- 8 (2) ~~The~~ the facilitator loan fee; fee.
- 9 ~~(3) Any loan-related fee;~~
- 10 ~~(4) The electronic filing fee.~~

11 (c) Pursuant to G.S. 53-249(c), the registrant shall display the following fees:

- 12 (1) ~~The~~ the creditor fee;
- 13 (2) ~~The~~ the facilitator loan fee; and
- 14 ~~(3) All loan-related fees;~~
- 15 ~~(4) (3) The~~ the electronic filing fee.

16

17 *History Note: Authority G.S. 53-249(a), (c); 53-253; 150B-21.2;*

18 *Eff. September 1, ~~1993~~ 1993;*

19 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03J .0304

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 4, state "G.S. 53-249(d)(1) and (2),"*

*In the History Note, delete the citation to 150B-21.2.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03J .0304 is readopted as published in 32-19 NCR 1833 as follows:  
2

### 3 **04 NCAC 03J .0304 DISCLOSURES**

4 (a) For the purposes of G.S. 53-249(d)(1), (2), the registrant shall disclose and provide a copy to the debtor the  
5 following fees:

6 (1) The creditor loan fee;

7 (2) The facilitator loan fee; and

8 ~~(3) All loan-related fees;~~

9 ~~(4) (3) The electronic filing fee; fee.~~

10 ~~(5) The total dollar amount of the fees disclosed pursuant to Subparagraphs (a)(1)-(3) of this Rule.~~

11 (b) For the purposes of G.S. 53-249(d)(5), the term "appropriate taxing authority" shall mean the Internal Revenue  
12 Service.

13 ~~(c) All disclosures made pursuant to G.S. 53-249(d) shall be made on a form or forms detached from the~~  
14 ~~application. The registrant shall provide an applicant for a refund anticipation loan with a copy of all such~~  
15 ~~disclosure forms. In the case of an application for a refund anticipation loan by a married couple who are filing a~~  
16 ~~joint tax return, the registrant may satisfy this provision by providing one copy of all such disclosure forms to the~~  
17 ~~couple.~~

18

19 *History Note: Authority G.S. 53-249(d); 53-253; 150B-21.2;*

20 *Eff. September 1, ~~1993~~ 1993;*

21 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03J .0305

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 5, consider replacing "such" with "the"*

*On line 6, why not state "Notification shall be made by either letter or..."?*

*In (b), line 10, replace "at which" with "where"*

*In the History Note, delete the citation to 150B-21.2.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03J .0305 is readopted as published in 32-19 NCR 1833 as follows:  
2

### 3 **04 NCAC 03J .0305 AMENDMENTS TO APPLICATION**

4 (a) A registrant shall maintain a current application with the Commissioner. If there is a change in the information  
5 contained in the application, the registrant shall notify the Commissioner within 30 days of the effective date of such  
6 change. Notification to the Commissioner shall be accomplished either by letter or by a revision of the applicable  
7 ~~pages section~~ of the application filed pursuant to Rule .0201 of this Subchapter. ~~If the registrant elects to comply~~  
8 ~~with this Rule by revising its application, it shall obtain the applicable pages of the application from the~~  
9 ~~Commissioner.~~

10 (b) If a registrant decides to open a new office in this State at which it intends to facilitate refund anticipation loans,  
11 it shall notify the Commissioner of the opening of the new office at least 30 days before it begins business as a  
12 facilitator in the new office. The notification shall comply with Paragraph (a) of this Rule and shall be accompanied  
13 by a fee made payable to the Commissioner in the amount set forth in G.S. 53-248(a) for each new office in this  
14 State at which the registrant facilitates refund anticipation loans.

15

16 *History Note: Authority G.S. 53-253; 150B-21.2;*

17 *Eff. September 1, ~~1993~~ 1993;*

18 *Readopted Eff. August 1, 2018.*

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03J .0306 is repealed through readoption as published in 32:19 NCR 1833 as follows:

2

3 **04 NCAC 03J .0306 CESSATION OF OPERATIONS**

4

5 *History Note: Authority G.S. 53-253; 150B-21.2;*

6 *Eff. September 1, 1993.*

7 *Repealed Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03J .0401

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*You have submitted the name and the History Note of Rule 04 NCAC 03J .0301. Please use the text of Rule 03J .0401, which is what you noticed in the Register when you repealed it.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03J .0401 is repealed through readoption as published in 32:19 NCR 1833 as follows:

2

3 **04 NCAC 03J .0401 CHECK CASHING SERVICES**

4

5 *History Note: Authority G.S. 53-250(5); 53-253; 150B-21.2;*

6 *Eff. September 1, 1993.*

7 *Repealed Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03J .0402

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*When will the Commissioner determine to do this? Is it part of an investigation or during the application process?*

*In the History Note, delete the citation to 150B-21.2.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03J .0402 is readopted as published in 32-19 NCR 1833 as follows:

2

3 **04 NCAC 03J .0402 EXAMINATIONS, AUDITS**

4 The Commissioner may conduct or cause to be conducted an examination or audit of the books and records of any  
5 ~~registrant at any time when considered proper.~~ registrant.

6

7 *History Note: Authority G.S. 53-253; 150B-21.2;*

8 *Eff. September 1, ~~1993~~ 1993;*

9 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03K .0101

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), lines 4-5, consider using language similar to the language in 03J .0101. For example, "In addition to the definitions in G.S. 53-257, for the purposes of this Subchapter, the following definitions apply:"*

*If you do not want to do that, line 4, define "clearly requires otherwise:"*

*You end (a)(1) through (7) and (9) with semicolons. You end (a)(8) with a period. I recommend ending all of them with periods. However, please change to be consistent. And regardless of the punctuation you choose, end (a)(9) with a period. [If you end all with a semicolon, insert an "and" at the end of (a)(8).]*

*In (a)(4), the term defined in G.S. 53-244.0303(4) is "Branch office" If you want to keep the term as it is in this Rule, state "has the same meaning as "Branch office" as defined in..."*

*In (a)(4), (5), (6), and (9), consider simply citing to the statute, rather than the specific subsection.*

*In (a)(7), is this SAFE Act what is contemplated in G.S. 53-244.010?*

*In (b), consider making this one sentence by deleting the language on lines 36-37 "Applications and documents shall be obtained and filed" so the sentence reads "Any application... shall be obtained and filed with the Commissioner of Banks at <http://www.nccob.gov>."*

*On line 34, insert a comma after "notice"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03K .0101 is readopted with changes as published in 32-19 NCR 1833 as follows:  
2

### 3 **04 NCAC 03K .0101 DEFINITIONS; FILINGS**

4 (a) As used in this Subchapter, unless the context clearly requires otherwise:

- 5 (1) Terms defined in G.S. 53-257 ~~shall~~ have the same meaning as set forth therein;
- 6 (2) "Accounting period" ~~shall mean~~ means either a period of 12 months (or less in the first year of  
7 operation) ending December 31 or a fiscal year of not more than 12 months (~~or less in the first~~  
8 ~~year of operation~~) ending on the last day of any month except December;
- 9 (3) "Application fee" ~~shall mean~~ means any fee accepted by an authorized lender or lenders in  
10 connection with an application for a reverse mortgage loan including any charge for soliciting,  
11 processing, ~~placing~~ placing, or negotiating a reverse mortgage loan. ~~The term does not include a~~  
12 ~~third-party fee as such term is defined in Subparagraph (a)(8) of this Rule; loan;~~
- 13 (4) "Branch" has the same meaning as defined in G.S. 53-244.030(4);
- 14 (4) (5) "Certified Financial Statements" shall mean the Statement of Financial Position, Income  
15 Statement, Statement of Cash Flows, and Statement of Retained Earnings which have been  
16 attested by a certified public accountant; "Engaging in the mortgage business" has the same  
17 meaning at G.S. 53-244.030(11);
- 18 (5) (6) "Person" shall mean an individual, corporation, partnership, trust, association, or other entity;  
19 "Mortgage lender" has the same meaning as G.S. 53-244.030(20);
- 20 (6) (7) "Regulation Z" shall mean Regulation Z as promulgated by the Board of Governors of the Federal  
21 Reserve System and codified at 12 CFR Part 226, et seq.; "NC SAFE Act authorized lender"  
22 means a mortgage lender licensed in this State that has obtained a Notice of Authorization;
- 23 (7) (8) "RESPA" shall mean the Real Estate Settlement Procedures Act, codified at 12 USC 2601, et seq.;  
24 "Notice of Authorization" means the document granted by the Commissioner that authorizes a  
25 mortgage lender to engage in the business of making reverse mortgage loans.
- 26 (8) (9) "Third-Party fee" shall mean the fees or charges paid by the borrower for a mortgage loan to the  
27 lender for transmittal to third persons who provide services in connection with the mortgage loan,  
28 including, but not limited to, recording taxes and fees, reconveyance or releasing fees, appraisal  
29 fees, credit report fees, attorney's fees, fees for title reports and title searches, title insurance  
30 premiums, surveys and similar charges; "Person" has the same meaning as G.S. 53-244.030(25);
- 31 (9) "Truth In Lending Act" shall mean Title I of the Consumer Credit Protection Act, as amended, and  
32 codified at 15 USC 1601, et seq.;

33 (b) Any application for authorization to make reverse mortgage loans, ~~or~~ any report, annual statement, amendment  
34 to application, notice or other document ~~which~~ that is required by law or rule shall be obtained and filed with the  
35 Commissioner of Banks located at 316 West Edenton Street, Raleigh, North Carolina 27603. The mailing address  
36 is 4309 Mail Service Center, Raleigh, North Carolina 27699-4309. Banks. [Forms] Applications and documents  
37 shall be obtained and filed at <http://www.nccob.gov>.  
38

1 *History Note: Authority G.S. 53-257; 53-259; 53-271(a);*  
2 *Eff. January 1, 1995;*  
3 *Amended Eff. September 1, ~~2006~~, 2006;*  
4 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03K .0201

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 12, why is "Applicant" capitalized?*

*Also, who is an applicant? A business entity?*

*In (a)(1), line 34, define "updated"*

*Also on line 34, I take it "business plan" is known to your regulated public?*

*In (a)(2), line 36, replace "at which" with "where"*

*On line 38, end the sentence with a semicolon, not a period.*

*In (a)(3), Page 2, line 1, what do you mean by "description"?*

*On line 1, insert a comma after "activities"*

*On line 1, education of the applicant? If it's a business, what does this mean?*

*In (b), line 5, G.S. 53-271 does not address applicants. Why is this citation in this Rule?*

*Also, how will the notice of additional information be given?*

*What authority are you relying upon for Paragraph (c)?*

*In the History Note, line 11, I suggest you replace the multiple citations to G.S. 53-258 to simply G.S. 53-258.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03K .0201 is readopted as published in 32-19 NCR 1834 as follows:  
2

### 3 **04 NCAC 03K .0201 APPLICATION FOR AUTHORIZATION AS A REVERSE MORTGAGE** 4 **LENDER**

5 ~~(a) No person shall make reverse mortgage loans pursuant to the Reverse Mortgage Act without first obtaining~~  
6 ~~authorization from the Commissioner. An application for authorization to make reverse mortgage loans shall be~~  
7 ~~obtained from the Commissioner and shall be filed pursuant to Rule .0101(b) of this Subchapter.~~

8 ~~(b) The following fees shall be submitted with the application for authorization to make reverse mortgage loans:~~

9 ~~(1) A non-refundable application fee made payable to the Commissioner in the amount set forth in~~  
10 ~~G.S. 53-258(b);~~

11 ~~(2) An annual fee made payable to the Commissioner as set forth in G.S. 53-258(d).~~

12 ~~(c) (a) The application shall be in writing writing, and verified by the oath of attested by the applicant. Applicant,~~  
13 ~~and filed pursuant to Rule .0101(b) of this Subchapter, and shall include the following:~~

14 ~~(d) The application shall include:~~

15 ~~(1) The applicant's Articles of Incorporation, or General or Limited Partnership Agreement;~~

16 ~~(2) A Certificate of Existence or Certificate of Good Standing, not more than 90 days old, from the~~  
17 ~~applicant's state of incorporation;~~

18 ~~(3) A Certificate of Authority to do business in this State;~~

19 ~~(4) A copy of the applicant's Certificate of Assumed Name;~~

20 ~~(5) Disclosure of any criminal proceedings pending against or criminal convictions entered against the~~  
21 ~~applicant, its partners, directors, principal officers or controlling persons;~~

22 ~~(6) Disclosure of any civil proceedings pending against or civil judgments entered against the~~  
23 ~~applicant, its partners, directors, principal officers or controlling persons which involve fraud or~~  
24 ~~dishonesty;~~

25 ~~(7) Disclosure of any civil judgments entered against the applicant, its partners, directors, principal~~  
26 ~~officers or controlling persons during the past 10 years which have remained partially or wholly~~  
27 ~~unpaid;~~

28 ~~(8) Disclosure of the following proceedings involving the applicant: bankruptcy, assignment for the~~  
29 ~~benefit of creditors, receivership, conservatorship or similar proceeding;~~

30 ~~(9) Disclosure of enforcement proceedings by the Federal Housing Administration, Veterans~~  
31 ~~Administration, Federal National Mortgage Association, or any other federal or state agency~~  
32 ~~against the applicant, its partners, directors, principal officers or controlling persons which involve~~  
33 ~~licensure or business activities as a mortgage broker or mortgage banker;~~

34 ~~(10) (1) A an updated business plan that includes a description of the applicant's reverse mortgage business~~  
35 ~~operations and organizational structure; operations;~~

36 ~~(11) (2) The addresses at which the applicant intends to engage in business as a reverse mortgage~~  
37 ~~lender, including branch offices and the name of the each branch manager at each branch office;~~  
38 ~~manager.~~



## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03K .0202 is repealed through readoption as published in 32:19 NCR 1835 as follows:

2

3 **04 NCAC 03K .0202 NOTIFICATION OF INTENT TO ENGAGE IN REVERSE MORTGAGE**

4 **LENDING**

5

6 *History Note: Authority G.S. 53-258(a)(c); 53-259; 53-271(a);*

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

8 *Repealed Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03K .0203

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 5, how is this notification made? Pursuant to Rule 03K .0101(b)? Does that website allow uploading of the letterhead?*

*In (b), line 10, define "likely"*

*Also on line 10, so that I'm clear – this is affecting the Commissioner's decision to grant the authorization?*

*On line 11, I suggest you delete "also" since it seems this is giving examples of "material"*

*On line 14, capitalize "State" assuming you mean NC.*

*In the History Note, line 11, I suggest you replace the multiple citations to G.S. 53-258 to simply G.S. 53-258.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03K .0203 is readopted as published in 32-19 NCR 1835 as follows:  
2

### 3 **04 NCAC 03K .0203 CURRENT AUTHORIZED LENDER INFORMATION**

4 (a) ~~An A NC SAFE Act~~ authorized lender shall notify the Commissioner within 30 days of the effective date of any  
5 material changes to the information on file with the Commissioner. Notification shall be made on the lender's  
6 letterhead.

7 ~~(b) Notification to the Commissioner of all material changes shall be made on the authorized lender's letterhead and~~  
8 ~~filed pursuant to Rule .0101(b) of this Subchapter.~~

9 ~~(c)~~ (b) For the purposes of this Rule, the term "material" ~~shall mean~~ means any information ~~which that~~ would be  
10 likely to influence the granting of authorization to engage in reverse mortgage lending. The term "material" shall  
11 also include ~~but not be limited to~~ information concerning a changes change in the address of the authorized lenders,  
12 ~~directors, corporate officers, partners, or the business structure. It shall also include changes in the address of the~~  
13 ~~authorized lender's main or branch offices and any names under which the applicant operates.~~ lender's reverse  
14 mortgage branch locations or the cessation of reverse mortgage lending activities in this state.

15

16 *History Note:* Authority G.S. 53-258(b),(d); 53-259; 53-271;

17 *Eff. January 1, 1995. 1995;*

18 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03K .0204

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*So that I'm clear, are you requiring that all reverse mortgage lenders be NC SAFE Act authorized lenders? Or will this Rule only apply to NC SAFE Act authorized lenders? Is this address G.S. 53-258(a)?*

**§ 53-258. Authority and procedures governing reverse mortgage loans.**

(a) Except as provided in subsection (b1) of this section, no person, firm, or corporation shall engage in the business of making reverse mortgage loans without first being approved as an authorized reverse mortgage lender by the Commissioner. **Mortgage lenders licensed under Article 19A of this Chapter must also be authorized under this Article before making reverse mortgage loans.**

*On lines 4 and 6, in Rule 03K .0101, the term is "NC SAFE Act" with a space between "NC" and "SAFE" Please be consistent.*

*In the History Note, isn't the proper citation to G.S. 53-271(c)? If you need to retain (a), I suggest simply citing to G.S. 53-271.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03K .0204 is readopted as published in 32-19 NCR 1835 as follows:  
2

3 **04 NCAC 03K .0204 ANNUAL ~~REGISTRATION~~ RENEWAL FEE**

4 (a) On or before December 31 of each year, each NCSAFE Act authorized lender shall pay the annual fee set forth  
5 in G.S. 53-258(d).

6 (b) Failure of an NCSAFE Act authorized lender to pay the annual fee as of the date specified in Paragraph (a) of  
7 this Rule shall be grounds for revocation of its ~~authorization.~~ authorization to make reverse mortgage loans.

8

9 *History Note:* Authority G.S. 53-258(d); 53-259; 53-271(a);

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

11 *Readopted Eff. August 1, 2018.*

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03K .0205 is repealed through readoption as published in 32:19 NCR 1835 as follows:

2

3 **04 NCAC 03K .0205**      **CERTIFICATE OF AUTHORIZATION**

4

5 *History Note:*      *Authority G.S. 53-122(3); 53-258(b)(d); 53-259; 53-271(a);*

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

7                              *Repealed Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03K .0206

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*What is the need for this Rule, in light of G.S. 53-258(d)? Is this to address non-assignability?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03K .0206 is readopted as published in 32-19 NCR 1835 as follows:  
2

### 3 **04 NCAC 03K .0206 NONTRANSFERABILITY OF CERTIFICATE OF AUTHORIZATION**

4 ~~(a)~~ A Certificate of Authorization shall be neither transferrable nor assignable.

5 ~~(b)~~ The circumstances under which the Commissioner shall deem a change in the authorized lender's organizational  
6 structure to constitute a transfer or assignment of the Certificate of Authorization shall include, but not be limited to,  
7 the following:

8 (1) ~~If the authorized lender is a corporation:~~

9 (A) ~~A change in ownership of 50% or more of the authorized lender's stock;~~

10 (B) ~~The conversion of the corporation into a general or limited partnership or sole~~  
11 ~~proprietorship.~~

12 (2) ~~If the authorized lender is a general or limited partnership:~~

13 (A) ~~A change in one of the authorized lender's general partners;~~

14 (B) ~~The conversion of the general partnership into a limited partnership, corporation or sole~~  
15 ~~proprietorship;~~

16 (C) ~~The conversion of the limited partnership into a general partnership, corporation or sole~~  
17 ~~proprietorship.~~

18 (3) ~~If the authorized lender is a sole proprietor:~~

19 (A) ~~The conversion of the sole proprietorship into a general or limited partnership or~~  
20 ~~corporation;~~

21 (B) ~~The sale of all of the assets of the authorized lender's business to another person.~~

22 ~~(e)~~ Upon a change in organization as set forth in Paragraph (b) of this Rule, the authorized lender's registration shall  
23 become void and the authorized lender shall surrender its Certificate of Authorization to the Commissioner within 30  
24 days of such change. If the entity which results from the change in the authorized lender's organizational structure  
25 would like to engage in business as a reverse mortgage lender in this State, it shall apply for authorization pursuant to  
26 Rule .0201 of this Section.

27

28 *History Note:* Authority G.S. 53-258(d); 53-259; 53-271(a);

29 *Eff. January 1, 1995. 1995;*

30 *Readopted Eff. August 1, 2018.*

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03K .0301 is repealed through readoption as published in 32:19 NCR 1835 as follows:

2

3 **04 NCAC 03K .0301      MINIMUM NET WORTH REQUIREMENT FOR AUTHORIZED**  
4 **LENDER OR LENDERS**

5

6 *History Note: Authority G.S. 53-258(b); 53-259; 53-271(a);*

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

8 *Repealed Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03K .0302

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On the Submission for Permanent Rule form, Box 2, please insert the Subchapter into the citation.*

*On lines 4-5, what authority are you referring upon to set this bond at \$100,000?*

*So that I'm clear – you are writing this Rule to apply to only NC SAFE authorized lenders?*

*In the History Note, line 13, please simply cite to G.S. 244.103, rather than the multiple citations to that law.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03K .0302 is readopted as published in 32-19 NCR 1835 as follows:  
2

### 3 **04 NCAC 03K .0302 SURETY BONDS**

4 ~~(a)~~ All NC SAFE Act authorized lenders shall post a surety bond in the amount of one hundred thousand dollars  
5 (\$100,000) with the Commissioner ~~which that~~ shall run to the benefit of the ~~Commissioner~~. State. The bond shall be  
6 executed by an insurance company authorized to do business in North Carolina and not affiliated with the lender.  
7 The bond shall be conditioned upon the authorized lender's compliance with the provisions of ~~Article~~ Articles 19B  
8 and 21 of Chapter 53 of the General Statutes and all rules adopted thereunder.

9 ~~(b) All authorized lenders which are approved by the Commissioner on or after the effective date of this rule shall~~  
10 ~~meet the requirements of this Rule upon approval. Authorized lenders which were approved by the Commissioner~~  
11 ~~before the effective date of this Rule shall have until March 31, 1995 to comply with this Rule.~~

12

13 *History Note: Authority G.S. 53-244.103(a),(c); 53-244.118; 53-258(b); 53-259; 53-271(a);*

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

15 *Readopted Eff. August 1, 2018.*

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03K .0401 is repealed through readoption as published in 32:19 NCR 1835 as follows:

2

3 **04 NCAC 03K .0401 CERTIFIED FINANCIAL STATEMENTS**

4

5 *History Note: Authority G.S. 53-259; 53-271(a);*

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

7 *Repealed Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03K .0402

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On the Submission for Permanent Rule form, Box 2, please insert the Subchapter into the citation.*

*In (a), lines 5-6, what is "in a manner permitting inspection by the Commissioner"?*

*In (b), line 9, how will this notice be given? Is it using the method in Rule 03K .0101(b)? Is there a timeframe to give this notice?*

*In the History Note, since this Rule applies to NC SAFE authorized lenders, should you cite to G.S. 53-244.105?*

*Also in the History Note, why are you citing to G.S. 53-270?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03K .0402 is readopted as published in 32-19 NCR 1836 as follows:  
2

### 3 **04 NCAC 03K .0402 RECORD AND BOOKKEEPING REQUIREMENTS**

4 (a) All NC SAFE Act authorized lenders shall maintain their books and records relating to the making of reverse  
5 mortgage loans for a period of three years after payment of the debt in a manner permitting inspection by the  
6 Commissioner.

7 ~~(b) All financial records required by Paragraph (a) of this Rule shall be prepared in accordance with generally~~  
8 ~~accepted accounting principles.~~

9 ~~(c)~~ (b) An NC SAFE Act authorized lender shall notify the Commissioner of any change in the location of its books  
10 and records.

11 ~~(d) In the case of an out-of-state lender, the lender shall designate the Commissioner as agent for service of process~~  
12 ~~in connection with any reverse mortgage loan transaction.~~

13

14 *History Note: Authority G.S. 53-259; 53-270; 53-271(a);*

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

16 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03K .0403

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On the Submission for Permanent Rule form, Box 2, please insert the Subchapter into the citation.*

*What is the purpose of this Rule in light of G.S. 53-244.115(a)?*

**§ 53-244.115. Investigation and examination authority.**

(a) For purposes of initial licensing or registration, renewal, suspension, conditioning, revocation, or termination, or general or specific inquiry, investigation, or examination to determine compliance with this Article, the Commissioner may access, receive, and use any books, accounts, records, files, documents, information, or evidence, including all of the following:

- (1) Criminal, civil, and administrative history information, including nonconviction data.
- (2) Personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act.
- (3) Any other documents, information, or evidence the Commissioner deems relevant to the inquiry, investigation, or examination regardless of the location, possession, control, or custody of the documents, information, or evidence.

*Assuming you need to retain this language, what is "necessary or desirable."? Can't you state "authorized lenders pursuant to G.S. 53-244.115."?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel

Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03K .0403 is readopted as published in 32-19 NCR 1836 as follows:  
2

3 **04 NCAC 03K .0403 EXAMINATIONS**

4 The Commissioner may make such examination of the books, records and affairs of NC SAFE Act authorized lenders  
5 ~~under Article 21 of Chapter 53 of the General Statutes~~ at such times as he or she may deem necessary or desirable.  
6

7 *History Note: Authority G.S. 53-244.115; 53-259; 53-270; 53-271(a);*

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

9 *Readopted Eff. August 1, 2018.*

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.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03K .0404

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On the Submission for Permanent Rule form, Box 2, please insert the Subchapter into the citation.*

*Please note, the name of a Rule is not within the purview of RRC review. However, is there a reason you are not spelling out "Mortgage" here? It is spelled out elsewhere (see Rule 03K .0501) and it seems confusing to use an abbreviation here. If you choose to change the name, please submit a new name on Submission for Permanent Rule form, Box 2.*

*Is this Rule not already addressed by Rule 03K .0203(b)?*

*If it is not, then please note says that the decision shall be communicated within 30 days of the decision, but Rule .0203 requires notification within 30 days of the effective date. Those seem to be different, so which controls? If the deadline is the same, use the same terminology.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 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.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03K .0405

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Again, the name of the Rule is not within the RRC purview. But if you are no longer requiring a minimum net worth, you may want to remove that from the Rule. If you do this, please change the name of the Rule in the Submission for Permanent Rule form, Box 2.*

*On line 6, please underline "(a)"*

*Consider combining Paragraphs (a) and (b). "An applicant shall immediately notify...Subchapter. For the purposes of this Rule, "immediately" ... the bonding requirements."*

*On line 6, what do you mean by "applicant"? Won't this now be a NC SAFE authorized lender? I ask because Rule .0302 applies only to NC SAFE authorized lenders.*

*On line 9, please delete the "and" before "bonding"*

*In (c), line 11, what are the "minimum net worth requirements"? Please note, you are repealing Rule 03K .0301.*

*If you need to retain the term, line 11, should the "and" be an "or"?*

*On line 12, you refer to suspension, but G.S. 53-271(c) speaks to revocation. What is your authority for this? Is there authority in Article 19B you wish to cite to? I note that you struck "suspend" from Rule 03K .0702.*

*In the History Note, consider simply combining the multiple citations to the same law into "G.S. 53-271"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03K .0405 is readopted as published in 32-19 NCR 1836 as follows:  
2

### 3 **04 NCAC 03K .0405 IMPAIRMENT OF MINIMUM NET WORTH, AND SURETY BOND**

4 ~~(a)~~ An applicant shall notify the Commissioner in writing if, at any time, it fails to meet the minimum net worth  
5 requirements of Rule .0301 of this Subchapter.

6 ~~(b)~~ (a) An applicant shall immediately notify the Commissioner in writing of any cancellation or suspension of the  
7 surety bond required by Rule .0302 of this Subchapter.

8 ~~(c)~~ ~~(b)~~ For the purposes of this Rule, ~~immediately~~ “immediately” means within three business days of discovery of  
9 the failure to meet the ~~minimum net worth~~, and bonding requirements of ~~Section .0300 of this Subchapter~~.

10 Paragraph (a) of this Rule.

11 ~~(d)~~ ~~(c)~~ If an applicant fails to meet the minimum net worth, and surety bond requirements, the Commissioner may  
12 revoke or suspend authorization of ~~an NC SAFE Act authorized lender or lender~~ to engage in reverse mortgages.

13

14 *History Note:* Authority G.S. 53-258(b); 53-259; 53-271(a)(c);

15 Eff. January 1, ~~1995~~. 1995;

16 Readopted Eff. August 1, 2018.

## Permanent Repeal of Consecutive Rules for Publication in the NCAC

1 04 NCAC 03K .0501 - .0502 are repealed through readoption as published in 32:19 NCR 1836 as follows:

2

3 **04 NCAC 03K .0501 REVERSE MORTGAGE LENDER APPLICATION DISCLOSURE**

4 **04 NCAC 03K .0502 PERMITTED FEES**

5

6 *History Note: Authority G.S. 53-259; 53-264; 53-265(a); 53-270; 53-271(a);*

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

8 *Repealed Eff. August 1, 2018.*

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03K .0601 is repealed through readoption as published in 32:19 NCR 1836 as follows:

2

3 **04 NCAC 03K .0601 COUNSELING**

4

5 *History Note: Authority G.S. 53-259; 53-260; 53-264; 53-271(a);*

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

7 *Repealed Eff. August 1, 2018.*

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03K .0701 is repealed through readoption as published in 32:19 NCR 1836 as follows:

2

3 **04 NCAC 03K .0701      PROHIBITED ACTS**

4

5 *History Note:*    *Authority G.S. 53-259; 53-270; 53-271(a);*

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

7                    *Repealed Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03K .0702

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a)(3), line 9, what is the Reverse Mortgage Act? If you mean G.S. 53, Article 21, please include a citation.*

*In (a)(3), replace "provisions" with "rules"*

*What is (a)(5)? Any action that involves dishonesty, fraud, or misrepresentation in a professional setting or just any personal act?*

*In the History Note, consider simply combining the multiple citations to the same law into "G.S. 53-271"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03K .0702 is readopted as published in 32-19 NCR 1836 as follows:  
2

### 3 **04 NCAC 03K .0702 ENFORCEMENT ACTIONS**

4 The grounds upon which the Commissioner may ~~either revoke or suspend~~ the authorization of a lender to engage in  
5 reverse mortgage loans ~~shall include, but not be limited to~~ includes the following:

- 6 (1) The making of any false statement in an application for ~~authorization, if the false statement would~~  
7 ~~have been grounds for denial of the application; or~~ authorization;
- 8 (2) The making of any false statement on any form or document requested by the Commissioner; ~~or~~
- 9 (3) One or more violations of the Reverse Mortgage Act or provisions of this Subchapter; ~~or~~
- 10 (4) The conviction of any crime ~~which~~ that would have a bearing upon the fitness or ability of the  
11 authorized lender to conduct its business; or
- 12 (5) The commission of any action ~~which~~ that involves dishonesty, fraud, or misrepresentation. ~~This~~  
13 ~~Subparagraph shall not be construed to apply to bona fide errors.~~
- 14 (6) ~~The failure to pay the annual fee pursuant to Rule .0204 of this Subchapter.~~

15

16 *History Note:* Authority G.S. 53-259; 53-270; 53-271(a)(c);

17 *Eff. January 1, 1995. 1995.*

18 *Readopted Eff. August 1, 2018.*

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03K .0703 is repealed through readoption as published in 32:19 NCR 1836 as follows:

2

3 **04 NCAC 03K .0703 HEARINGS**

4

5 *History Note:* Authority G.S. 53-259; 53-270; 53-271; 53-272;

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

7 *Repealed Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03L .0101

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 5, state "purposes" to be consistent with other Rules.*

*In (a)(3), fix the indentation.*

*You can delete the language regarding where the Rule can be located on lines 13 – 18.*

*In (a)(4), line 20, do not insert the comma after "as"*

*On line 21, you state the "term" check includes other drafts and money orders. However, G.S. 53-275 treats "checks, drafts, or money orders" as different instruments. Is this definition correct within the Rule?*

*Assuming this language is needed, on line 21, should this be "check, other draft, or money order" or is it "check or other draft or money order"?*

*In (a)(5), line 23, define "plain"*

*On lines 23-24, consider stating "in a location, manner, and size of typeface"*

*On line 25, what is "easily"?*

*In (a)(7), line 29, delete the comma after "drawer"*

*On line 29, can you state "... a written order to pay money signed by the drawer, to another person, who is the drawee."?*

*In (a)(8), line 33, doubtful as determined by whom? The licensee?*

*In (a)(10), line 36, what is "or other moveable means"? Should this read "vehicle, other moveable means, or a computer"? Or is this intended to address a vehicle or other moveable means, or a computer terminal?*

Amanda J. Reeder  
Commission Counsel

Date submitted to agency: June 28, 2018

*Consider breaking (a)(11) on Page 2 into a list.*

*Principal means:*

- (A) any person who... proprietorship;*
- (B) any natural person...licensee; or*
- (C) any natural person... licensee.*

*In (a)(11), what is the difference between a “person” and a “natural person”? Those terms aren’t defined in G.S. 53-275, nor in G.S. 25, Article 3. Does your regulated public know?*

*In (a)(11), line 2, what are these intermediaries? Does your regulated public know?*

*On line 4, what is “apparent authority”? Is this known to your regulated public?*

*In the History Note, why are you citing to G.S. 53C-2-1 and 2-2? Those do not confer rulemaking authority for this Rule.*

*If you need to retain the, please put them in numerical order after G.S. 53-288.*

*Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.*

## Permanent Amendment for Publication in the NCAC

04 NCAC 03L .0101 is readopted as published in 32-19 NCR 1836 as follows:

### 04 NCAC 03L .0101 DEFINITIONS

(a) ~~As used in this Subchapter unless the context or the language of~~ In addition to the definitions in G.S. 53, Article 22 indicates a contrary intention, the following definitions shall apply: ~~22, for the purpose of this Subchapter the following definitions apply:~~

- (1) "Any one maker" ~~shall mean~~ means any single signatory on a personal checking account.
- (2) "Branch location" ~~shall mean any~~ means a location, including a mobile unit, but not the principal place of business, where the licensee holds itself out to the public as engaging in a check-cashing business.
- (3) "Business day" ~~shall mean~~ means a calendar day, other than Saturday, ~~Sunday~~ Sunday, or State recognized holiday. ~~holiday under 25 NCAC 01E .0901, which is incorporated by reference and includes subsequent amendments. A copy of the regulation may be obtained from the website free of charge at <http://reports.oah.state.nc.us/ncac/title%2025%20-%20state%20human%20resources/chapter%2001%20-%20office%20of%20state%20human%20resources/subchapter%20e/25%20ncac%2001e%20.0901.pdf>.~~
- (4) "Check" ~~shall mean~~ means a draft (other than a draft payable upon presentation of ~~documentation~~ documentation, such as ~~as~~ securities) payable on demand and drawn on a bank. The term "check" may also include any cashier's ~~check or~~ check, teller's ~~check or other~~ check, ~~other~~ draft or money order, but shall not include travelers checks or foreign denomination payment instruments.
- (5) "Conspicuously posted" ~~shall mean~~ means placed in plain public view in such a location and in such a way and of such form and size and typeface that ~~any~~ a person seeking the services of a licensee could easily see and read the contents of the posted notice.
- (6) "Controlling person" ~~shall mean~~ means any a person who owns or holds with the power to vote 10% or more of the equity securities of an applicant or licensee, or who has the power to direct the management and policy of the licensee.
- (7) "Draft" ~~shall mean~~ means a written order to pay money signed by one person, the ~~drawer~~ drawer, who signs the document, to another person, the drawee.
- (8) "Liquid assets" ~~shall mean~~ means cash, bank deposit accounts, ~~and~~ money market ~~accounts or similar property~~ accounts, and US Treasury bonds owned by the applicant or licensee, plus undeposited checks cashed by a licensee, less any returned checks doubtful of collection and cash remittances due others.
- (9) "Location" ~~shall mean~~ means any a place of business where check-cashing activity is conducted.
- (10) "Mobile unit" ~~shall mean~~ means a vehicle vehicle, or other movable ~~means~~ means, or a computer terminal from which the business of check cashing is conducted.

1 (11) "Principal" ~~shall mean~~ means any person who controls directly, or indirectly through one or more  
2 intermediaries, alone or in concert with others, a 10% or greater interest in a partnership,  
3 company, ~~association~~ association, or corporation; the owner of a sole proprietorship; any natural  
4 person acting with apparent authority for or on behalf of an owner, officer, member, or director of  
5 a licensee; or any natural person who directs the performance of other employees as manager of a  
6 branch of any licensee.

7 (12) "Principal place of business" ~~shall mean~~ means the location where the licensee holds itself out to  
8 the public as engaging in a check cashing business and ~~which that~~ the licensee has declared to the  
9 Commissioner to be ~~its~~ the main site of its business operations.

10 (13) "Receipt" ~~shall mean~~ means a written record of ~~the a~~ check-cashing transaction.

11 (b) ~~Unless a term is defined herein~~ A term not defined in this Rule or in G.S. 53, Article 22, that term 22 shall have  
12 the meaning given it, if any, by Article 3 "Negotiable Instruments" of Chapter 25, North Carolina Uniform  
13 Commercial Code. G.S. 25, Article 3.

14  
15 *History Note:* Authority G.S. 53C-2-1; 53C-2-2; 53-288;

16 *Eff. July 1, 2000;*

17 *Amended Eff. November 1, 2013. 2013;*

18 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03L .0102

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In the History Note, why are you citing to G.S. 53C-2-1 and 2-2? Those do not confer rulemaking authority for this Rule.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03L .0102 is readopted with changes as published in 32-19 NCR 1836 as follows:  
2

### 3 **04 NCAC 03L .0102 FILINGS**

4 ~~Any Licensees may obtain from the agency's website, located at <https://www.nccob.gov>, information concerning~~  
5 ~~application applications for a license, or any report reports, application applications for annual renewal, amendment~~  
6 ~~amendments to application, [applications] applications, renewal notice notices, or other document documents which~~  
7 ~~is that are required by law or rule to be filed with the Commissioner shall be addressed as follows: Commissioner.~~

8 Office of the Commissioner of Banks

9 4309 Mail Service Center

10 Raleigh, North Carolina 27699-4309

11 ~~or, if not mailed, then delivered to:~~

12 Office of the Commissioner of Banks

13 316 West Edenton Street

14 Raleigh, North Carolina 27603.

15

16 *History Note: Authority G.S. 53-288; 53C-2-1; 53C-2-2;*

17 *Eff. July 1, 2000;*

18 *Amended Eff. September 1, 2006; 2006;*

19 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03L .0201

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a)(1), line 11, is this "mailing address" if different from the business address?*

*In (c), line 22, define "full"*

*In (c)(1), line 25, consider saying "all pending criminal proceedings or criminal convictions;" Note I recommend a similar change in (c)(2), line 27.*

*In (c)(6), Page 2, line 1, who will determine if the judgement reflects on the applicants' character and fitness to command the confidence of the public"? The way it is written, since it's a self-report, it seems that the applicant will determine it. If the Commissioner will be determining this, you need to add some guidance within this Rule.*

*In (c)(7), line 4, you are asking for education of the company?*

*In (e), how will notice of this be given?*

*What authority are you relying upon for Paragraph (f)?*

*In the History Note, why are you citing to G.S. 53C-2-1 and 2-2? Those do not confer rulemaking authority for this Rule.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03L .0201 is readopted as published in 32-19 NCR 1837 as follows:  
2

### 3 **04 NCAC 03L .0201 APPLICATION FOR LICENSE**

4 ~~(a) Any person intending to engage in a check-cashing business pursuant to G.S. 53, Article 22 shall first be~~  
5 ~~licensed by the Commissioner. An application shall be made on a form obtained from the Commissioner, and the~~  
6 ~~completed application shall be filed pursuant to Rule .0102 of this Subchapter.~~

7 ~~(b) (a) The An~~ application for a license as a check-cashing business shall include a financial statement that is  
8 ~~sufficient to show~~ shows liquid assets of fifty thousand dollars (\$50,000) as required by G.S. ~~53-279(a).~~ 53-279(a)  
9 and shall include the following:

10 ~~(c) The application for license as a check-cashing business shall further include:~~

- 11 (1) the business address in North Carolina, mailing address, business telephone number, facsimile  
12 number, and name of the supervisor or manager for the principal place of business and for each  
13 branch location;
- 14 (2) the address where books and records for the business will be kept;
- 15 (3) name, title, and business telephone number and facsimile number for the application contact  
16 person;
- 17 (4) the applicant's federal employer identification number; and
- 18 (5) a declaration as to whether the applicant's business will be conducted as a sole proprietorship, a  
19 partnership, a limited liability company, or a corporation.

20 ~~(d) (b)~~ Each applicant shall provide a signed statement authorizing the Commissioner to run a credit report on the  
21 applicant and on each owner, partner, director, principal, or controlling ~~person thereof.~~ person.

22 ~~(e) (c)~~ Each applicant shall provide a signed statement making full disclosure to the Commissioner concerning  
23 information that pertains to either the applicant, its partners, directors, principal officers, or controlling persons for  
24 the following:

- 25 (1) ~~Any all~~ criminal proceedings pending against or criminal ~~convictions entered against the~~  
26 ~~applicant, its partners, directors, principal officers or controlling persons;~~ convictions;
- 27 (2) ~~Any all~~ civil proceedings pending against or civil judgments entered ~~against the applicant, its~~  
28 ~~partners, directors, principal officers or controlling persons which that~~ involve fraud or dishonesty;
- 29 (3) ~~Any all~~ civil judgments entered against the applicant, its partners, directors, principal officers or  
30 ~~controlling persons during the past 10 years which that~~ have remained partially or wholly unpaid;
- 31 (4) ~~Any all~~ of the following ~~proceedings involving the applicant, its partners, directors, principal~~  
32 ~~officers or controlling persons:~~ proceedings: bankruptcy, assignment for the benefit of creditors,  
33 receivership, ~~conservatorship~~ conservatorship, or similar proceeding;
- 34 (5) ~~Any all~~ proceedings brought by a state or federal administrative ~~agency against the applicant, its~~  
35 ~~partners, directors, principal officers or controlling persons;~~ agency;
- 36 (6) ~~Any all~~ judgments entered by state or federal administrative agency ~~against the applicant, its~~  
37 ~~partners, directors, principal officers, or controlling persons which that~~ involve fraud, dishonesty,

1 or that reflect on the applicants' character and fitness to command the confidence of the public;  
2 and  
3 (7) A a description of the business experience, current business ~~activities~~ activities, and ~~education of~~  
4 ~~the applicant, its partners, directors, principal officers and controlling persons.~~ education.  
5 ~~(f) (d)~~ The application ~~shall be in writing and~~ shall be verified by the oath of the applicant.  
6 ~~(g) (e)~~ In addition to the documents and information described in this Rule, the Commissioner may require ~~such~~  
7 additional information ~~as he may deem~~ necessary or helpful in order to perform the investigation ~~required by~~  
8 required by G.S. 53-278 and to make the findings required by G.S. 53-279.  
9 ~~(h) (f)~~ Incomplete application files may be closed and may be ~~deemed~~ denied without prejudice when the applicant  
10 has not submitted information requested by the Commissioner within 30 days of the request.  
11

12 *History Note: Authority G.S. 53-276; 53-278; 53-279; 53-288; 53C-2-1; 53C-2-2;*

13 *Eff. July 1, ~~2000~~ 2001;*

14 *Readopted Eff. August 1, 2018.*

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03L .0202 is repealed through readoption as published in 32:19 NCR 1837 as follows:

2

3 **04 NCAC 03L .0202 FEES**

4

5 *History Note: Authority G.S. 53-278; 53-288; 53C-2-1; 53C-2-2;*

6 *Eff. July 1, 2000.*

7 *Repealed Eff. August 1, 2018.*

## Permanent Repeal for Publication in the NCAC

1 04 NCAC 03L .0301 is repealed through readoption as published in 32:19 NCR 1837 as follows:

2

3 **04 NCAC 03L .0301**      **ISSUANCE**

4

5 *History Note:*      *Authority G.S. 53-278; 53-279; 53-288; 53C-2-1; 53C-2-2;*

6                              *Eff. July 1, 2000.*

7                              *Repealed Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03L .0302

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (b), line 6, please state "constitutes"*

*In the History Note, why are you citing to G.S. 53C-2-1 and 2-2? Those do not confer rulemaking authority for this Rule.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03L .0302 is readopted as published in 32-19 NCR 1837 as follows:  
2

### 3 **04 NCAC 03L .0302 NONTRANSFERABILITY OF LICENSE**

4 (a) A check-cashing license ~~granted hereunder~~ shall be neither transferable nor assignable.

5 (b) ~~The circumstances under which the Commissioner shall deem a change in the licensee's organizational structure~~  
6 ~~to constitute a transfer or assignment~~ A change in the licensee's organizational structure that constitute a transfer or  
7 assignment of the license shall include, but not be limited to, the following: include the following:

8 (1) ~~If~~ if the licensee is a corporation or limited liability company:

9 (A) ~~A~~ a change in ownership of 50% or more of the licensee's stock; or

10 (B) ~~The~~ the conversion of the corporation or company into a general or limited partnership or  
11 sole proprietorship;

12 (2) ~~If~~ if the licensee is a general or limited partnership:

13 (A) ~~A~~ a change in one of the licensee's general partners;

14 (B) ~~The~~ the conversion of the general partnership into a limited partnership, ~~corporation~~  
15 corporation, or sole proprietorship; or

16 (C) ~~The~~ the conversion of the limited partnership into a general partnership, ~~corporation~~  
17 corporation, or sole proprietorship; and

18 (3) ~~If~~ if the licensee is a sole proprietor:

19 (A) ~~The~~ the conversion of the sole proprietorship into a general or limited partnership or  
20 corporation; or

21 (B) ~~The~~ the sale or assignment of all of the assets of the licensee's business to another person.

22 (c) Upon a change in organization as set forth in Paragraph (b) of this Rule, the licensee's license shall become void  
23 and the licensee shall surrender its ~~license~~ license to the Commissioner within 10 days of ~~such~~ the change. ~~If the~~  
24 The entity ~~which that~~ results from the change in the licensee's organizational structure ~~desires and intends to engage~~  
25 shall not engage in a check-cashing business in this State, ~~it shall apply for~~ unless it first obtains a license pursuant  
26 to Section .0200 of this ~~Subchapter, Subchapter, and this~~ An application for a license may be made prior to the  
27 effective date of ~~said change: the change in structure.~~

28

29 *History Note: Authority G.S. 53-276; 53-278; 53-288; 53C-2-1; 53C-2-2;*

30 *Eff. July 1, 2000. 2000;*

31 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03L .0303

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Consider breaking this down into a three Paragraph rule. Paragraph (a), will lines 7-9; Paragraph (b) will be lines 9 (beginning with "The renewal period" through 10; and Paragraph (c) will be the rest of the language.*

*On line 8, insert a comma after "renewed"*

*Also on line 8, there is no need to have "annually" and "of each year" so I suggest you remove "annually"*

*On line 9, what is contained in the renewal application? Is it the same as the contents in Rule 03L .0201?*

*In the History Note, why are you citing to G.S. 53C-2-1 and 2-2? Those do not confer rulemaking authority for this Rule.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03L .0303 is readopted as published in 32-19 NCR 1837 as follows:  
2

### 3 **04 NCAC 03L .0303 ANNUAL RENEWAL OF LICENSE**

4 ~~On or before September 1 of each year, a licensee may renew its license by filing with the Commissioner an~~  
5 ~~application for license renewal on a form available from the Commissioner, along with payment of renewal fees~~  
6 ~~required under G.S. 53-278(d). Absent such renewal each year, the license shall expire and become void on~~  
7 ~~September 30 without further action by the Commissioner. A check-cashing license shall be valid from the date of~~  
8 ~~issuance and, unless renewed annually shall expire on September 30 of each year without further action by the~~  
9 ~~Commissioner. The renewal period shall begin on July 1 of each year. Licensees may file renewal applications and~~  
10 ~~pay applicable renewal fees on the agency website located at [www.nccob.gov](http://www.nccob.gov). Any new license issued on or after~~  
11 ~~July 1 of each year shall not be required to be renewed until the subsequent renewal period.~~  
12

13 *History Note:* Authority G.S. 53-276; 53-278; 53-288; 53C-2-1; 53C-2-2;

14 Eff. July 1, ~~2000~~; 2000;

15 Readopted Eff. August 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03L .0401

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On lines 4-5, consider replacing "at which" with "where"*

*On line 6, why do you need anything after "posted," given the definition in Rule 03L .0101?*

*In the History Note, why are you citing to G.S. 53C-2-1 and 2-2? Those do not confer rulemaking authority for this Rule.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03L .0401 is readopted as published in 32-19 NCR 1837 as follows:  
2

3 **04 NCAC 03L .0401 POSTING OF LICENSE OR BRANCH CERTIFICATE**

4 A licensee shall obtain a branch location certificate for each location other than its principal place of business at  
5 which its business of cashing checks is conducted. The license or certificate ~~must~~ shall be conspicuously ~~posted~~  
6 posted in the unobstructed view of the public within the branch location.

7

8 *History Note: Authority G.S. 53-276; 53-278; 53-288; 53C-2-1; 53C-2-2;*

9 *Eff. July 1, ~~2000~~ 2000;*

10 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03L .0402

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On line 4, I take it the notification will be made following the requirements of Rule 03L .0102?*

*On line 5, consider stating "day of the decision"*

*On line 6, should the "and" after "State" be "or"*

*Also on line 6, replace "such" with "a"*

*In the History Note, why are you citing to G.S. 53-283?*

*In the History Note, why are you citing to G.S. 53C-2-1 and 2-2? Those do not confer rulemaking authority for this Rule.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03L .0402 is readopted as published in 32-19 NCR 1837 as follows:  
2

3 **04 NCAC 03L .0402 SURRENDER OF LICENSE**

4 A licensee shall notify the Commissioner in writing of its decision to cease operations as a check-cashing business  
5 in this State within seven days of such decision. A licensee shall surrender its license and branch certificates, if any,  
6 to the Commissioner no later than 30 days after it has voluntarily ceased operations in this State and within such  
7 shorter time as the Commissioner may order if operations end ~~involuntarily~~ involuntarily pursuant to G.S. 53-284 or  
8 G.S. 53-285.  
9

10 *History Note: Authority G.S. 53-283; 53-285; 53-276; 53-288; 53C-2-1; 53C-2-2;*

11 *Eff. July 1, ~~2000~~ 2000;*

12 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03L .0403

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On lines 5- 6, why do you need anything after "posted," given the definition in Rule 03L .0101?*

*In the History Note, why are you citing to G.S. 53C-2-1 and 2-2? Those do not confer rulemaking authority for this Rule.*

*If you need to retain them, please put them in numerical order after G.S. 53-288.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03L .0403 is readopted as published in 32-19 NCR 1837 as follows:  
2

### 3 **04 NCAC 03L .0403 POSTING OF FEES**

4 (a) The notice of fees required by G.S. 53-280(c) ~~shall be clear, legible, and in bold and blocked letters and numbers~~  
5 ~~not less than one inch in height. The information shall be conspicuously posted in a conspicuous location in the~~  
6 unobstructed view of the public within the check casher's ~~premises.~~ location.

7 (b) A licensee shall file with the Commissioner ~~on paper 8 1/2 x 11 inches~~ a scaled duplicate of the notice ~~required~~  
8 ~~by G.S. 53-280(c) and Paragraph (a) of this Rule.~~ of fees on 8 1/2 x 11 inch paper.

9  
10 *History Note:* Authority G.S. 53C-2-1; 53C-2-2; 53-280; 53-288;  
11 *Eff. July 1, 2000;*  
12 *Amended Eff. November 1, ~~2013.~~ 2013.*  
13 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03L .0501

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 7, please state "include" rather than "includes"*

*In (a)(1), line 8, who will determine if the record is equivalent? The licensee?*

*In (a)(3), you imply that the statements do not have to be maintained on the premises. But in (b), you state that the records must be maintained at each business location. Are you treating branches separately from business location?*

*On lines 12 and 15, when will these requests be made?*

*In (b), line 16, state "his or her"*

*In the History Note, why are you citing to G.S. 53C-2-1 and 2-2? Those do not confer rulemaking authority for this Rule.*

*If you need to retain them, please put them in numerical order after G.S. 53-288.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03L .0501 is readopted with changes as published in 32-19 NCR 1837 as follows:  
2

### 3 **04 NCAC 03L .0501 BOOKS AND RECORDS**

4 (a) Each check-cashing business licensed by the Commissioner of Banks shall record all transactions of receipts and  
5 disbursements pertaining to checks cashed. All entries shall ~~be made as of~~ reflect the exact document the date the  
6 transactions occur. A licensee shall maintain books and accounting records which shall include, at a minimum: that  
7 includes the following:

- 8 (1) a daily transaction ~~journal, journal~~ or equivalent ~~record, record~~ which shall show that shows the  
9 customer's name for each transaction;  
10 (2) the written receipt required by G.S. 53-282(b); and  
11 (3) the bank statements of the licensee. If the statements are not maintained on the premises of the  
12 licensee, they ~~must~~ shall be made available upon request by the Office of the Commissioner of  
13 Banks.

14 (b) These records shall be maintained at each business location for a period of three years from the date of entry and  
15 shall be made available by the close of business on the next business day upon request to the Commissioner of  
16 Banks or his designee for inspection or examination for a period of not less than three years from the date of final  
17 entry- examination.

18 ~~(c) No books or records of the licensee required hereunder shall show any account or reflect any transaction other~~  
19 ~~than those related to the check-cashing business within the provisions of the Check-Cashing Businesses Act.~~

20 ~~(d) Books and records retained by a licensee which arise from or relate to a prior accounting period may be~~  
21 ~~maintained in the form of magnetic tape, magnetic disk, or other form of computer, electronic or microfilm media~~  
22 ~~available for examination on the basis of computer printed reproduction, video display, or other medium so long as~~  
23 ~~any books and records kept in such manner are convertible into legible, tangible documents within 72 hours of~~  
24 ~~request of the Commissioner. The time for such conversion may be extended if the Commissioner determines that~~  
25 ~~the burden to the licensee of such conversion exceeds the benefit to the Commissioner and the public.~~

26  
27 *History Note: Authority G.S. 53C-2-1; 53C-2-2; 53-282; 53-288;*

28 *Eff. July 1, 2000;*

29 *Amended Eff. November 1, ~~2013~~ 2013;*

30 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03L .0502

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), what is the use of this sentence?*

*If you need to retain it, consider stating "may be done" or "may be made"*

*On lines 7-9, what statutory authority are you relying upon for this? General inspection authority in G.S. 53-278 and 282?*

*In (c), so that I'm clear, you are referring to Paragraph (b) of 03C .1601?*

*On line 14, "60 days" should not be hyphenated.*

*On line 15, since you say "may" under what circumstances will the Commissioner determine not to proceed with the remedies in statute?*

*On line 15, replace "contemplated by" with "set forth in" or even "in"*

*In the History Note, why are you citing to G.S. 53C-2-1 and 2-2? Those do not confer rulemaking authority for this Rule.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03L .0502 is readopted as published in 32-19 NCR 1838 as follows:  
2

3 **04 NCAC 03L .0502 EXAMINATIONS; INVESTIGATIONS EXAMINATIONS**

4 (a) ~~The Commissioner of Banks may make such examination of the books, records, business locations, and~~  
5 ~~operations of any licensee and at such times as may seem necessary or desirable to the Commissioner or his~~  
6 ~~designee. Such examinations~~ Examinations may be with or without advance notice to the licensee.

7 (b) In addition to examinations authorized by G.S. 53-278(b) or G.S. 53-282(c), the Commissioner may request ~~from~~  
8 ~~licensees hereunder such reports from the licensee and at such times as to him shall be necessary or advisable for the~~  
9 purpose of determining the general results of operations ~~under G.S. 53,~~ pursuant to Article 22, 22 of Chapter 53.

10 ~~The Commissioner or his designee may also examine or investigate a licensee when the Commissioner has~~  
11 ~~reasonable grounds to believe that a registrant has violated any law or regulation of this State, the Federal~~  
12 ~~government or any agency thereof.~~

13 (c) If a licensee fails to pay the costs of examination as authorized by G.S. 53-282(c) and at a rate pursuant to 04  
14 NCAC 03C .1601 or investigation to the Commissioner within ~~a reasonable time as required by 60-days of billing,~~  
15 ~~G.S. 53-282(e), then~~ the Commissioner may proceed to remedies contemplated by G.S. ~~53-284 et seq.~~ 53-284.

16  
17 *History Note:* Authority G.S. 53-278; 53-282; 53-284; 53-288; 53C-2-1; 53C-2-2;

18 Eff. July 1, ~~2000~~ 2000;

19 Readopted Eff. August 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03L .0601

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 5, I suggest you replace "in its" before "request for annual renewal" with "the"*

*In (b), consider deleting "accomplished"*

*In (c), line 10, define "likely"*

*Also on line 10, so that I'm clear – this is affecting the Commissioner's decision to grant the authorization?*

*On line 12, why not just state "includes the following"?*

*In (c)(3), line 16, replace "which" with "that"*

*In the History Note, why are you citing to G.S. 53C-2-1 and 2-2? Those do not confer rulemaking authority for this Rule.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03L .0601 is readopted as published in 32-19 NCR 1838 as follows:  
2

### 3 **04 NCAC 03L .0601 AMENDMENTS TO INFORMATION ON FILE WITH THE COMMISSIONER**

4 (a) A licensee shall notify the Commissioner within 30 days of any material change to information ~~which~~ that it  
5 submitted to the Commissioner, whether provided in its initial application, in its request for annual renewal, or in  
6 any other report or ~~information otherwise provided to the Commissioner.~~ information.

7 (b) Notification shall be accomplished by letter or by revision or modification of the appropriate portions of the  
8 application (whether initial or renewal). ~~If the licensee elects to revise or modify its initial application or annual~~  
9 ~~renewal statement, it shall do so on pages obtained from the Commissioner.~~

10 (c) For the purposes of this Rule, the term "material" shall mean any information ~~which~~ that would be likely to  
11 influence the granting, revocation, or expiration of a ~~license hereunder.~~ license. The term "material" ~~shall include,~~  
12 ~~but not be limited to:~~ may include the following:

- 13 (1) changes in the licensee's corporate officers, partners, or business structure;
- 14 (2) changes in the address of the licensee's main or branch ~~offices~~ locations and any names under  
15 which the licensee operates; or
- 16 (3) changes which would render untrue, inaccurate, or misleading any of the disclosures made by the  
17 licensee in its application pursuant to Rule .0201 of this Subchapter.

18

19 *History Note:* Authority G.S. 53-278; 53-283; 53-284; 53-288; 53C-2-1; 53C-2-2;

20 *Eff. July 1, 2000. 2000;*

21 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03L .0602

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On line 6, what are the contents of this form?*

*On line 7, you ask for an "explanation" but on line 9, you refer to a "satisfactory" explanation. What is required for the explanation to be satisfactory?*

*Why not make this a multiple paragraph rule? You can put together everything the licensee must send you, including the inaccurate certificate (in lines 10-13) and then have a Paragraph that says when the Commissioner will issue the new certificate.*

*In the History Note, why are you citing to G.S. 53C-2-1 and 2-2? Those do not confer rulemaking authority for this Rule.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03L .0602 is readopted as published in 32-19 NCR 1838 as follows:  
2

### 3 **04 NCAC 03L .0602 EXPANSION OR RELOCATION**

4 A licensee shall notify the Commissioner of the opening of any new branch ~~office~~ locations or the relocation of its  
5 principal place of business or of any branch ~~office~~ locations at least 20 days prior to the effective date of ~~such~~ the  
6 change. The notification shall be on a form obtained from the Commissioner. The notification shall provide an  
7 explanation of the reasons for ~~such~~ the change and shall be accompanied by a certificate fee for the new branch  
8 certificate in the amount of fifty dollars (\$50.00). The Commissioner shall issue a revised branch certificate upon  
9 ~~his~~ his or her receipt of the required notification, the satisfactory explanation, and the filing ~~fee,~~ fee and upon  
10 surrender of the licensee's inaccurate certificate. Licensees may surrender their inaccurate certificate by mailing the  
11 certificate to the Commissioner at: Office of the Commissioner of Banks, 4309 Mail Service Center, Raleigh, North  
12 Carolina 27699-4309 or may be delivered to our physical address: 316 West Edenton Street, Raleigh, North  
13 Carolina 27603.

14

15 *History Note: Authority G.S. 53-276; 53-278; 53-279; 53-283; 53-288; 53C-2-1; 53C-2-2;*

16 *Eff. July 1, ~~2000~~ 2000;*

17 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03L .0603

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In the History Note, why are you citing to G.S. 53C-2-1 and 2-2? Those do not confer rulemaking authority for this Rule.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03L .0603 is readopted as published in 32-19 NCR 1838 as follows:  
2

3 **04 NCAC 03L .0603      IMPAIRMENT OF FINANCIAL REQUIREMENTS**

4 A licensee shall ~~immediately~~ notify the Commissioner in writing within 30 days ~~if, at any time, if~~ it fails to meet the  
5 minimum liquid asset requirement of G.S. 53-279(a).  
6

7 *History Note:*     *Authority G.S. 53-279; 53-288; 53C-2-1; 53C-2-2;*

8                     *Eff. July 1, ~~2000~~ 2000.*

9                     *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03M .0101

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*What is the purpose of Item (1)? I don't see that you are incorporating anything by reference except Item (11), and that Item follows the incorporation language. I suggest you delete (1).*

*In Item (2), lines 12-13, I suggest you delete "commonly known as"*

*In Item (3), line 15, who determines what is "intended"? The individual distributing it?*

*On line 19, is "similar display" meant to be similar to a billboard?*

*On line 22, will this exclusion be known to the individual?*

*Please place the terms defined in Items (6), (7), and (8) into alphabetical order.*

*In Item (6), Page 2, line 1, define "likely"*

*Also on line 1, so that I'm clear – this is affecting the Commissioner's decision to grant the authorization?*

*In Sub-Item (6)(k), line 32, do you need an "a" between "for" and "corporate"? It seems that you do.*

*In Item (7), Page 3, line 12, I note the standard here is "reasonably be expected" and not "likely" as in Item (6). Should these be the same?*

*In Item (8), are you intending to keep the language that is bracketed? Do you want to retain the language as published in the NC Register on Page 1838? If so, you don't need to bracket or highlight it.*

*Also, please note that you probably don't want to strike "facts" on line 26. Otherwise, this sentence reads "Material change" means a change to any material."*

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

*Why do you need Item (9), in light of the introductory language on Page 1, lines 4 and 5?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

04 NCAC 03M .0101 is readopted with changes as published in 32-19 NCR 1838 as follows:

### 04 NCAC 03M .0101 DEFINITIONS

As used in this Subchapter, unless a contrary definition is provided or required by the context: In addition to the definitions in G.S. 53, Article 19B for the purposes of this Subchapter the following definitions apply:

- (1) ~~Terms used in this Subchapter which are defined in the Act have the same meaning as set forth in the Act.~~
- (2) (1) When any term in this Subchapter is defined by reference to or incorporation of a regulation or rule of a federal or state agency, board, commission or other regulatory body other than the Commissioner, the reference shall be deemed to be to the regulation or rule as it is in effect and interpreted in its most current version.
- (3) (2) "Act" means Article 19B of Chapter 53 of the North Carolina General Statutes, commonly known as the "North Carolina Secure and Fair Enforcement (S.A.F.E.) Mortgage Licensing Act," or "NC SAFE Act."
- (4) (3) "Advertisement" means material used or intended to be used to induce the public to apply for a mortgage loan. The term includes any printed or published material, or descriptive literature concerning a mortgage loan to be solicited, processed, ~~negotiated~~ negotiated, or funded by a licensee or exempt entity whether disseminated by direct mail, newspaper, magazine, radio or television broadcast, electronic mail or other electronic means, or billboard or similar display. The term does not include any disclosures, program descriptions, or other materials prepared or authorized by any state or federal government agency, nor does the term include any material or communication which that has been excluded for purposes of any regulation of the Board of Governors of the Federal Reserve System regulating consumer credit disclosures.
- (5) (4) "Call Report" means a report of condition on a company and its operations which that includes financial and loan activity information.
- (6) ~~"Commission" means the North Carolina Banking Commission. For purposes of complying with these Rules by credit unions, Banking Commission means the North Carolina Credit Union Commission.~~
- (7) ~~"Controlling person" means a person who, with regard to a licensee:~~  
(a) ~~has the ability to exercise "control", as the term is defined in G.S. 53-244.030(7), or~~  
(b) ~~otherwise has the power to direct the management and policy of the licensee.~~
- (8) ~~"Instructor" means an individual who is employed by a provider and who is responsible for teaching a program.~~
- (9) (6) (5) "License" means a mortgage lender, mortgage servicer, mortgage broker, exclusive mortgage broker, or mortgage loan originator license issued pursuant to the Act and this Subchapter.
- (10) (7) (6) "Material" ~~when used in connection with facts or~~ "Material facts" means information provided to the Commissioner by a licensee or applicant, means facts or information regarding the person's identity, contact information, or business operations that a reasonable person knows, or

1 should know, would be likely to influence a decision to grant, suspend, condition, limit, renew, or  
2 revoke a license or to take other disciplinary action against a licensee or exempt person, including:

- 3 (a) notice of a pending administrative action involving the licensee or applicant for licensure  
4 by any state or federal authority to which the licensee is subject;
- 5 (b) the issuance of an administrative order against the licensee or applicant for licensure by  
6 any state or federal authority to which the licensee is subject;
- 7 (c) notice of a pending criminal charge against the licensee or applicant for actions related to  
8 financial services or moral turpitude;
- 9 (d) the entry of a conviction or one of the following on a criminal charge against the licensee  
10 or applicant for licensure for a felony or other criminal charge for actions related to  
11 financial services or moral turpitude:
  - 12 (i) a plea of guilty;
  - 13 (ii) a plea of no contest or nolo contendere;
  - 14 (iii) a prayer for judgment continued;
  - 15 (iv) a deferred prosecution agreement;
  - 16 (v) an adjudication or verdict of guilty by a domestic, foreign, military, or other  
17 court of competent jurisdiction;
  - 18 (vi) the equivalent of any of the foregoing in a domestic, foreign, military, or other  
19 court of competent jurisdiction; or
  - 20 (vii) any other classification that is **deemed** a conviction pursuant to the applicable  
21 law in the jurisdiction where the criminal charge was brought.
- 22 (e) a change in status to the licensee's bond, including the reduction or cancellation of such  
23 ~~bond; and bond;~~
- 24 (f) the licensee's primary phone number, mailing address, and principal office address;
- 25 (g) any assumed name, trade name, or d/b/a (doing business as) under which the licensee  
26 may be operating;
- 27 (h) the address at which files and documents retained pursuant to the Act or the rules in this  
28 Subchapter are stored;
- 29 (i) the identity of the licensee's bonding company or carrier, and the bond number;
- 30 (j) for corporate licensees, the identity of any affiliated mortgage lender, mortgage broker,  
31 mortgage servicer, or provider of settlement services; and
- 32 (k) for corporate license, the identity of the licensee's owners, officers, directors, qualifying  
33 individual, branch manager(s), or control persons.

34 (11) ~~"Material" when used in connection with facts or information provided to the Commissioner, by a~~  
35 ~~licensee or applicant for licensure, also means facts and information regarding the licensee's~~  
36 ~~identity and contact information, including:~~

- 37 (a) the licensee's primary phone number, mailing address, and principal office address;

- 1 (b) ~~any assumed name, trade name, or d/b/a (doing business as) under which the licensee~~  
2 ~~may be operating;~~
- 3 (c) ~~the address at which files or documents retained pursuant to the Act or the rules in this~~  
4 ~~Subchapter are stored;~~
- 5 (d) ~~the identity of the licensee's bonding company or carrier, and bond number;~~
- 6 (e) ~~for corporate licensees, the identity of any affiliated mortgage lender, mortgage broker,~~  
7 ~~mortgage servicer, or provider of settlement services; and~~
- 8 (f) ~~for corporate licensees, the identity of the licensee's owners, officers, directors, qualifying~~  
9 ~~individual, branch manager(s), or control persons.~~
- 10 (12) ~~[(8)]~~ (7) "Material" when used in connection with facts or information provided to a borrower,  
11 "Material borrower information" means facts or information that a reasonable person knows, or  
12 should know, would reasonably be expected to influence a borrower's decision with regard to one  
13 or more loans, including:
- 14 (a) the total compensation the mortgage broker expects to receive from all sources in  
15 connection with each loan option presented to the borrower;
- 16 (b) the terms of each loan option presented to the borrower;
- 17 (c) the anticipated monthly payment (including property tax and insurance payments) for  
18 each loan option presented to the borrower;
- 19 (d) if the loan contains a variable rate feature or other terms ~~which that~~ may result in a  
20 change to the borrower's monthly payments over the life of the loan, the circumstances  
21 upon which the terms or payments will change and the impact of the changes upon the  
22 borrower's required monthly payments; and
- 23 (e) any affiliate relationships that may exist between the licensee and any party or parties to  
24 the sale or financing of the subject property, or any provider of settlement services.
- 25 (13) ~~[(9)]~~ (8) "Material" when used in connection with the word "change" or "changes," "Material change"  
26 means a change to any material facts or information ~~[facts.]~~
- 27 (14) ~~[(40)]~~ (9) "Nationwide Mortgage Licensing System and Registry" or "NMLS&R" has the same  
28 meaning as defined in the NC SAFE Act.
- 29 (15) ~~[(11)]~~ "Prelicensing Education" means a classroom or classroom equivalent education program  
30 required by G.S. 53-244.070.
- 31 (16) "Program" means a prelicensing program.
- 32 (17) "Provider" means any person who provides a program.
- 33 (18) "Qualified Written Test" means the mortgage prelicensing ~~qualified written test~~ required by G.S.  
34 53-244.080.
- 35 ~~[(42)]~~ (10) "Registration" means the approval granted to a mortgage origination support registrant to  
36 engage ~~exclusively~~ in the processing or underwriting of residential mortgage loans but not the  
37 mortgage business.

1           (19) [(13)] (11) "Settlement Services" has the same meaning as defined in federal Real Estate Procedures  
2           Act (RESPA) 12 U.S.C. Sec. 2601 et. seq. Regulation X, 24 C.F.R. Part 3500 et. seq, which is  
3           incorporated by reference and includes subsequent amendments. A copy of the regulation may be  
4           obtained from the website free of charge U. S. Government Publications Office website at  
5           <https://www.gpo.gov/fdsys/granule/CFR-2000-title24-vol5/CFR-2000-title24-vol5->  
6           [part3500/content-detail.html.](https://www.gpo.gov/fdsys/granule/CFR-2000-title24-vol5/CFR-2000-title24-vol5-part3500/content-detail.html)

7           (20) "~~Testing Provider~~" means an organization approved by the NMLS&R to administer the qualified  
8           written test.

9  
10       *History Note:*     *Authority G.S. 53-244.118;*  
11                         *Temporary Adoption Eff. July 1, 2002;*  
12                         *Eff. April 1, 2003;*  
13                         *Amended Eff. July 1, 2010; July 18, ~~2008.~~ 2008;*  
14                         *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03M .0102

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 5, please incorporate the rules of OAH by reference, using G.S. 150B-21.6. You can state "... the rules of the Office of Administrative Hearings, 26 NCAC 03, which are incorporated by reference, including subsequent amendments and editions, any document..."*

*On line 5, insert a comma after "decision"*

*How does (a)(1) and (2) work in conjunction with G.S. 53-244.113(b), which states:*

**§ 53-244.113. Regulatory authority.**

(b) For purposes of this Article, the Commissioner shall be deemed to have complied with the requirements of law concerning service of process upon mailing by certified mail any notice required or permitted to a licensee or registrant under this Article, postage prepaid and addressed to the last known address of the licensee or registrant on file with the Commissioner pursuant to G.S. 53-244.105(c).

*Is Paragraph (b) to implement G.S. 53-244.119? If so, you might want to add that to your History Note.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03M .0102 is readopted as published in 32-19 NCR 1840 as follows:  
2

### 3 **04 NCAC 03M .0102 NOTICES**

4 (a) Except as otherwise required by G.S. 53-244.113(b), Article 3A, Chapter 150B of the General Statutes, or by the  
5 rules of the North Carolina Office of Administrative Hearings, any document, decision or other communication  
6 required or permitted to be given by the Commissioner to a ~~licensee, an applicant for a license or an exempt~~ person  
7 is considered given when either:

8 (1) deposited in the United States mail with sufficient first class postage affixed, addressed to the  
9 most recent principal office address provided by the addressee to the Office of the Commissioner  
10 of Banks; or

11 (2) transmitted through electronic mail to the address provided by the addressee to the Office of the  
12 Commissioner of Banks.

13 (b) Any application for licensure, report, annual statement, amendment to application, ~~notice~~ notice, or other  
14 document ~~which~~ that is required or permitted by law or rule to be filed with the Commissioner shall be ~~in writing,~~  
15 ~~and submitted in an electronic format~~ through the NMLS&R.

16 (c) Where the NMLS&R does not make available submission of any document required or permitted by law to be  
17 filed with the Commissioner, ~~such a~~ the document may be filed by electronic submission through the Office of the  
18 Commissioner of Bank's website (~~www.nccob.gov~~); https://www.nccob.gov if the Commissioner makes ~~such~~  
19 electronic submission available.  
20

21 *History Note: Authority G.S. 53-244.118;*

22 *Temporary Adoption Eff. July 1, 2002;*

23 *Eff. April 1, 2003;*

24 *Amended Eff. May 1, ~~2010~~ 2010;*

25 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03M .0201

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In Paragraph (b), it seems this addresses G.S. 53-244.115. Should this be in the History Note?*

*In Paragraph (c), line 14, please insert a comma after "fees"*

*In the History Note, line 21, please separate the citations for G.S. 53-244.070 and 244.080 with semicolons, not commas.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03M .0201 is readopted as published in 32-19 NCR 1840 as follows:  
2

### 3 **04 NCAC 03M .0201 APPLICATION**

4 ~~(a) All fees required by G.S. 53-244.090 or 53-244.101 shall be submitted with an application for licensure or~~  
5 ~~renewal of license as a mortgage lender, mortgage broker, mortgage servicer, exclusive mortgage broker or~~  
6 ~~mortgage loan originator. The fees are nonrefundable.~~

7 ~~(b) (a) Each type of application required by the rules in this Subchapter or the Act shall be filed through the~~  
8 ~~NMLS&R and shall be verified by the oath or affirmation of the applicant or a principal officer thereof. officer.~~

9 ~~(c) (b) In addition to the documents and information required by the rules in this Subchapter, the Commissioner or~~  
10 ~~his or her staff may require additional information according to the Rules in order to enable the Commissioner to~~  
11 ~~determine that the applicant meets or the licensee continues to meet the requirements of G.S. 53-244.040, 53-~~  
12 ~~244.050, 53-244.060, 53-244.070, 53-244.080, 53-244.100, 53-244.101, 53-244.102, 53-244.103, 53-244.104, and~~  
13 ~~53-244.105. the Act.~~

14 ~~(d) (c) Applications submitted without the required fees or which are missing material information facts, or any~~  
15 ~~information requested under Paragraph (b) of this Rule shall be held in pending status for a period of 30 calendar~~  
16 ~~days after written notice notification through the NMLS&R to the applicant specifying the nature of the deficiency.~~  
17 ~~If any such the deficiency remains outstanding for more than 30 days, the application shall automatically be~~  
18 ~~considered withdrawn without further action by the Commissioner, and the applicant shall submit a new application~~  
19 ~~and pay all fees associated therewith. fees.~~

20

21 *History Note: Authority G.S. 53-244.040, 53-244.050; 53-244.060; 53-244.070, 53-244.080, 53-244.100; 53-*  
22 *244.101; 53-244.102; 53-244.103; 53-244.104; 53-244.118;*

23 *Temporary Adoption Eff. July 1, 2002;*

24 *Eff. April 1, 2003;*

25 *Amended Eff. May 1, 2010; 2010;*

26 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03M .0202

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*So that I am clear – the Rule forbids all assignments [per G.S. 53-244.100(e)], but allows a transfer with advance notice?*

*In (a)(2), line 7, delete the “or” before “revocation”*

*Line 7, insert a comma after “registration”*

*I take it in (a)(2) you are referring to determinations and remedies under the SAFE Act?*

*In (b), line 11, what is a “control person”? Are you relying upon the definition of “control” in G.S. 53-244.030(7) to address this?*

*On line 12, how will it be determined if this is a transfer (which is allowed) versus an assignment (which is forbidden by law)?*

*Consider making the language on lines 14-19 its Paragraph and Subparagraphs.*

*On line 14, do you need “without submission of an application”?*

*In (b)(1), line 16, please correct the spelling of “registrant”*

*In (b)(2), line 18, what will be the guiding principles of the Commissioner? The requirements of the SAFE Act?*

*In (c), line 20, do you mean “information” instead of “detail”?*

*In (d)(1), line 25, what is “unduly burdensome”?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03M .0202 is readopted as published in 32-19 NCR 1840 as follows:  
2

### 3 **04 NCAC 03M .0202 NONTRANSFERABILITY**

4 (a) Any attempt to ~~transfer or~~ assign a license or registration through a change of control without the prior consent  
5 of the Commissioner shall:

- 6 (1) be ineffective; and
- 7 (2) be grounds for summary suspension, or revocation of the license or registration or other remedies  
8 available to the ~~Commissioner; and Commissioner.~~
- 9 ~~(3) render the licensee jointly and severally liable with the assignee for any actions or omissions of its  
10 assignee which occur while acting under the apparent authority of the license.~~

11 (b) A change in the identity of a licensee's ~~controlling control~~ control person or any material change in the licensee's  
12 organizational structure shall be considered a transfer or assignment of the ~~license.~~ license or registration. ~~However,~~  
13 ~~the Commissioner shall permit the change without requiring the licensee to apply for a new license, provided: A~~  
14 licensee or registrant may transfer a license or registration without submission of an application by providing the  
15 following to the Commissioner:

- 16 (1) the licensee or registrant gives notice to the Commissioner at least 60 days in advance of the  
17 effective date of the proposed change; and
- 18 (2) the Commissioner determines that permitting the licensee or registrant to continue to operate  
19 under its existing license or registration would not be inconsistent with the purposes of the Act.

20 (c) A notice pursuant to Subparagraph (b)(1) of this Rule shall include ~~sufficient~~ detail to enable the Commissioner  
21 to make the determination described in that Subparagraph (b)(2) of this Rule.

22 (d) The Commissioner shall waive or reduce the advance notice requirement of Subparagraph (b)(1) of this Rule if  
23 the Commissioner determines that:

- 24 (1) circumstances beyond the ~~licensee's~~ licensee or registrant's ~~reasonable~~ control would make  
25 compliance ~~therewith~~ unduly burdensome to the ~~licensee;~~ licensee or registrant;
- 26 (2) consumers would not be harmed by such a waiver or reduction of the advance notice requirement;
- 27 (3) the licensee or registrant has otherwise satisfied the requirements of this Rule; and
- 28 (4) waiver of the requirement of Subparagraph (b)(1) is in the public interest.

29

30 *History Note: Authority G.S. 53-244.050; 53-244.060; 53-244.100; 53-244.118;*

31 *Temporary Adoption Eff. July 1, 2002;*

32 *Eff. April 1, 2003;*

33 *Amended Eff. August 1, 2018; May 1, ~~2010;~~ 2010;*

34 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03M .0203

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On line 4, please delete the comma after "may"*

*In Item (1), line 6, does your regulated public know what these "applicable laws" are?*

*In Item (2), it seems that a corporate change is a "material fact" and that changing it is a "material change" as defined in Rule 03M .0101. So, doesn't the timeline of 60 days apply to this material change, as set forth in Rule .0202?*

*If this language does need to remain, I take it you need "at least" on line 9?*

*In Item (3), line 11, what is "likely"? And this will be determined by the Commissioner based upon the SAFE Act and G.S. 53C-1-3?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03M .0203 is readopted as published in 32-19 NCR 1840 as follows:  
2

### 3 **04 NCAC 03M .0203 NAME CHANGES**

4 A licensee or registrant may, ~~with the prior approval of the Commissioner,~~ change its corporate name or the name  
5 under which it operates, provided:

- 6 (1) the licensee or registrant and the proposed new name satisfies all applicable laws pertaining to  
7 ~~corporate, fictitious and trade names (including, but not limited to, G.S. 53-127);~~ assumed  
8 business names;  
9 (2) the licensee or registrant has given the Commissioner at least 30 days prior notice of the proposed  
10 new name; and  
11 (3) the Commissioner determines that the new name is not likely to result in confusion among the  
12 general ~~banking~~ public regarding the licensee's licensee or registrant's identity or ~~powers.~~ powers  
13 in accordance with G.S. 53C-1-3.  
14

15 *History Note: Authority G.S. 53-244.118; 53C-1-3;*  
16 *Temporary Adoption Eff. July 1, 2002;*  
17 *Eff. April 1, 2003-2003;*  
18 *Readopted Eff. August 1, 2018.*

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03M .0204 is readopted as published in 32-19 NCR 1840 as follows:  
2

### 3 **04 NCAC 03M .0204 EXPERIENCE**

4 As used in G.S. 53-244.050(b)(2), ~~a person~~ an individual is considered to have acquired "experience in residential  
5 mortgage lending" during any documented period in which:

- 6 (1) ~~that person's~~ more than half of the individual's employment income was ~~principally~~ derived from  
7 employment in the mortgage lending, mortgage servicing, or mortgage brokerage industry; and  
8 (2) ~~that person~~ individual had actual responsibility for job functions in each area of study included in  
9 a prelicensing education program.

10

11 *History Note: Authority G.S. 244-118;*

12 *Eff. April 1, 2003;*

13 *Amended Eff. May 1, 2010; April 1, ~~2008.~~ 2008.*

14 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03M .0205

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On Page 2, line 11, I don't understand the cross-reference. This is a basis to deny an application. How does this get to an ongoing compliance requirement? Is this not addressed by G.S. 53-244.111(14)?*

*In the History Note, G.S. 53-92 and 53-104 were repealed by SL 2012-56. Please remove them.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03M .0205 is readopted as published in 32-19 NCR 1840 as follows:  
2

### 3 **04 NCAC 03M .0205 FINANCIAL RESPONSIBILITY**

4 (a) ~~In order for applicants to be deemed to have the financial responsibility such as to command the confidence of the~~  
5 ~~community and to warrant belief that the business will be operated honestly and fairly under G.S. 53-244.60(4), the~~  
6 ~~applicant shall:~~

7 (1) ~~If a mortgage lender:~~

8 (A) ~~provide an audited statement of financial condition that demonstrates a net worth of at least~~  
9 ~~\$100,000;~~

10 (B) ~~provide evidence of warehouse line of credit of \$1,000,000 or other evidence of funding~~  
11 ~~capacity to conduct mortgage originations;~~

12 (C) ~~demonstrate a history of satisfying debt obligations, as indicated by a trade or personal~~  
13 ~~credit report(s) that does not contain evidence of outstanding judgments or tax liens against~~  
14 ~~applicant, its officers or directors, by creditors; and~~

15 (D) ~~provide an explanation of the corporate or ownership structure of the applicant, including~~  
16 ~~information regarding any required distributions to investors or owners.~~

17 (2) ~~If a mortgage broker:~~

18 (A) ~~provide a certified statement of financial condition that demonstrates a net worth of at least~~  
19 ~~\$25,000;~~

20 (B) ~~demonstrate a history of satisfying debt obligations, as indicated by a trade or personal~~  
21 ~~credit report(s) that does not contain evidence of outstanding judgments or tax liens against~~  
22 ~~applicant, its officers or directors, by creditors; and~~

23 (C) ~~provide evidence (in the form of a copy of a bank statement or other verifiable document)~~  
24 ~~that the broker owns and holds on a continual basis cash or other liquid assets in a demand~~  
25 ~~deposit account under the firm's name of at least ten thousand dollars (\$10,000.00) in an~~  
26 ~~FDIC-insured financial institution.~~

27 (3) ~~If a mortgage loan originator:~~

28 (A) ~~have a credit score from any of the three major credit rating agencies (Experian,~~  
29 ~~TransUnion or Equifax) of 600 or greater;~~

30 (B) ~~demonstrate a history of satisfying debt obligations, as indicated by an absence of~~  
31 ~~outstanding tax liens, other government liens or filings, outstanding judgments, except~~  
32 ~~judgments resulting solely from medical expenses, by creditors; and~~

33 (C) ~~not have any foreclosures or accounts delinquent in excess of 90 days within the past three~~  
34 ~~years.~~

35 (4) ~~If a mortgage servicer:~~

36 (A) ~~provide an audited statement of financial condition that demonstrates a net worth of at least~~  
37 ~~\$100,000.00;~~

1                   (B)     ~~demonstrate a history of satisfying debt obligations, as indicated by a trade or personal~~  
2                             ~~credit report(s) that does not contain evidence of outstanding judgments or tax liens against~~  
3                             ~~applicant, its officers or directors, by creditors; and~~

4                   (C)     ~~provide an explanation of the corporate or ownership structure of the applicant, including~~  
5                             ~~information regarding any required distributions to investors or owners.~~

6 (b) ~~The Commissioner shall not waive any requirement listed in Paragraph (a) of this Rule unless he believes the~~  
7 ~~predominant weight of the evidence supports a determination that the applicant has the financial responsibility~~  
8 ~~necessary to command the confidence of the community and to warrant belief that the business will be operated~~  
9 ~~honestly and fairly.~~

10 (e) Financial Responsibility is an ongoing requirement and upon issuance of a license, a licensee must continue to  
11 meet the requirements of Paragraph (a) of this Rule. G.S. 53-244.060(4).

12  
13 *History Note:*     ~~Authority G.S. 53-92; 53-104; 53-244.060(4); 53-244.104; 53-244.118;~~  
14                             ~~Eff. July 18, 2008;~~  
15                             ~~Amended Eff. July 1, 2010. 2010;~~  
16                             ~~Readopted Eff. August 1, 2018.~~

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03M .0206 is readopted as published in 32-19 NCR 1841 as follows:  
2

### 3 **04 NCAC 03M .0206 SURETY BOND**

4 (a) All licensees with surety bonds under G.S. 53-244.103 ~~must~~ shall ensure that full amount of the surety bond is in  
5 effect at all times. ~~In the event of a claim against the bond, the licensee has 30 days to reinstate the bond to the level~~  
6 ~~required in G.S. 53-244.103.~~ Failure to maintain the surety bond at the level required in G.S. 53-244.103 is grounds  
7 for immediate suspension of licensure.

8 (b) All licensees with surety bonds under G.S. 53-244.103 ~~must~~ shall report any claims made against the surety  
9 bond to the Commissioner within 10 business days upon receipt of notice of any claim.

10 (c) All surety bonds under G.S. 53-244.103 shall:

11 (1) require the bonding company to report all claims and any claims paid on the bond to the  
12 Commissioner within 10 days of such claim or payment;

13 (2) require the bonding company to pay within 30 days any amount ~~which~~ that the Commissioner  
14 orders the bonding company to pay upon a determination by the Commissioner that the licensee  
15 has failed to faithfully perform the licensee's obligations; and

16 (3) remain in effect for a minimum of five years after lapse or termination of the bond in order to  
17 satisfy possible claims for failure to faithfully fulfill obligations during the term of the bond.  
18

19 *History Note: Authority G.S. 53-103; 53-244.118;*

20 *Eff. April 1, 2008;*

21 *Amended Eff. May 1, ~~2010~~ 2010;*

22 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03M .0401

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 7, is the term "other similar composite data" known to your regulated public?*

*On line 8, if the Commissioner makes this determination, how will they be notified?*

*On lines 12-14, so that I'm clear – you are requiring that an insured depository institution send certification?*

*On line 13, what do you mean by "has previously covered"?*

*In (b), line 18, required where? By what?*

*Are the terms on line 16 "warehouse lines of credit or other funding facilities" known to your regulated public?*

*In (c), line 22, what is this electronic format? It's not NMLS&R? Is it the format in Rule 03M .0102(c)?*

*In (c)(1), line 24 and (c)(2), line 26, what is "sufficient"?*

*In (c)(2), line 26, what are "key items"?*

*In (c)(2), line 26, and (c)(3), line 31, why is "federal" lowercase? It's generally uppercase in the other rules.*

*In (c)(3), line 32, isn't this statute RESPA? Is there a reason you are spelling it out here?*

*On line 32, should this be "charges" not "changes"?*

*In (c)(5), Page 2, line 2, should there be an "and" before "the maximum"?*

*In (c)(6), line 4, you have "information" twice. You only need it in one place.*

*On line 7, should it read "score(s) of borrower(s)"?*

Amanda J. Reeder  
Commission Counsel

Date submitted to agency: June 28, 2018

*Please end (c)(7), line 9, with a period, not a comma.*

*On line 11, define "reasonably"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03M .0401 is readopted as published in 32-19 NCR 1841 as follows:  
2

### 3 **04 NCAC 03M .0401 REPORTING REQUIREMENTS**

4 (a) No later than 90 days after the end of the calendar year, mortgage lenders, mortgage ~~servicers~~ servicers, and  
5 mortgage brokers shall file an annual report in ~~a format required by the NMLS&R unless the Commissioner~~  
6 ~~determines that the report is not in the public interest.~~ NMLS&R. The annual report shall be supplemented with  
7 additional information about operations, characteristics of loans made, or other similar composite data if the  
8 Commissioner determines that this additional information is necessary ~~in order~~ to safeguard the interests of the  
9 borrowing ~~public~~ (See N.C. Gen. Stat. 53-244.118). public. Mortgage brokers shall as a part of the annual report  
10 provide certification from ~~the insured financial institution holding the account required under 04 NCAC 03M~~  
11 ~~.0205(a)(2)(C) that the account exists and that the account has contained an average daily balance, for the previous~~  
12 ~~year covered by the annual report of ten thousand dollars \$10,000 or more.~~ an insured depository institution that the  
13 broker has for the previous year covered by the annual report owned and held on a continual basis cash or other  
14 liquid assets of at least ten thousand dollars (\$10,000) in a deposit account under the firm's name. Failure to ~~timely~~  
15 submit an annual report within 90 days after the end of the calendar year is grounds for summary suspension  
16 pursuant to G.S. 53-244.114.

17 (b) Mortgage lenders, mortgage servicers, and mortgage brokers shall provide an audited statement of financial  
18 condition or a certified statement of financial condition as required by ~~04 NCAC 03M.0205(a)~~ within 90 days of the  
19 end of the licensee's fiscal year. If not shown in the audited statement of financial condition, mortgage lenders shall  
20 provide evidence of available warehouse lines of credit or other funding facilities.

21 (c) ~~Beginning on January 1, 2011, mortgage~~ Mortgage lenders and mortgage brokers shall provide information on  
22 the characteristics of loan originations in an electronic format prescribed by the Commissioner on a quarterly basis  
23 within 45 days after the close of the calendar quarter. Mortgage lenders shall provide:

- 24 (1) ~~Information~~ information sufficient to identify the mortgage loan and the unique identifier of the  
25 mortgage loan originator, mortgage broker (if applicable), and mortgage lender for the loan;
- 26 (2) ~~Information~~ information sufficient to enable a computation of key items in the federal Truth in  
27 Lending disclosures, including the annual percentage rate, finance charge, and a schedule of  
28 payments, and any deviations between the final disclosures and the most recent disclosures issued  
29 prior to the final disclosures;
- 30 (3) ~~Information~~ information included in the "Loan Estimate" (LE) or "Good Faith Estimate" (GFE)  
31 disclosure required under the federal Real Estate Settlement Procedures Act including the rate, the  
32 date of any interest rate lock, itemization of settlement ~~charges~~ changes, and all broker  
33 compensation;
- 34 (4) ~~Information~~ information included in the final Closing Disclosure or HUD-1 Settlement Statement,  
35 if maintained by the mortgage lender in an electronic format;
- 36 (5) ~~Information~~ information related to the terms of the loans, including adjustable rate loan features  
37 (including timing of adjustments, indices used in setting rates, maximum and minimum  
38 adjustments, floors and ceilings of adjustments), the undiscounted interest rate (if maintained by

1 the mortgage lender in an electronic format), penalties for late payments, and penalties for  
2 prepayment (including computation of the penalty amount, duration of prepayment penalty, the  
3 maximum amount of penalty);

4 (6) ~~Information~~ information typically used in ~~underwriting~~, underwriting information, including the  
5 appraised value of the property, sales price of the property (if a purchase loan), borrowers' income,  
6 monthly payment amount, housing debt-to-income ratio, total debt-to-income ratio, and credit  
7 score(s) of borrowers; and

8 (7) ~~Information~~ information included in a Loan Application Register for mortgage lenders required to  
9 submit information pursuant to the federal Home Mortgage Disclosure Act,

10 Mortgage brokers shall provide information identified ~~above in this Paragraph~~ unless such information is not  
11 prepared or known by the mortgage broker and the mortgage broker does not reasonably have access to the  
12 information in an electronic format. ~~The Commissioner shall permit mortgage lenders and mortgage brokers to~~  
13 ~~utilize compatible third party software to provide information required under this Paragraph.~~

14 (d) On a quarterly basis, mortgage lenders and mortgage brokers shall provide call reports containing financial and  
15 loan activity information in an electronic format through the NMLS&R.

16 (e) ~~Mortgage lenders, mortgage servicers, mortgage brokers, exclusive mortgage brokers, and mortgage loan~~  
17 ~~originators~~ A licensee or registrant shall report within 30 days the name of any person suspected of making a  
18 ~~material~~ misstatement of a material facts or material borrower information in connection with the mortgage lending  
19 or servicing process to the Commissioner. Mortgage lenders and mortgage brokers shall report within 30 days any  
20 loan repurchased due to a ~~material~~ misstatement of material borrower information made in connection with the  
21 mortgage lending process.

22 (f) ~~Mortgage lenders, mortgage servicers, mortgage brokers, exclusive mortgage broker, and mortgage loan~~  
23 ~~originators~~ A licensee or registrant shall report within 30 days the name of any person suspected of making a  
24 ~~material~~ misstatement of material facts or material borrower information in connection with an inquiry,  
25 investigation, or examination to the Commissioner.

26  
27 *History Note: Authority G.S. 53-244.104; 53-244.108; 53-244.115; 53-244.118;*  
28 *Eff. April 1, 2003;*  
29 *Amended Eff. July 1, 2010; July 3, ~~2008~~; 2008;*  
30 *Readopted August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03M .0402

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In G.S. 75-61(14), the term that is defined is "security breach." It is defined as:*

(14) "Security breach". - An incident of unauthorized access to and acquisition of unencrypted and unredacted records or data containing personal information where illegal use of the personal information has occurred or is reasonably likely to occur or that creates a material risk of harm to a consumer. Any incident of unauthorized access to and acquisition of encrypted records or data containing personal information along with the confidential process or key shall constitute a security breach. Good faith acquisition of personal information by an employee or agent of the business for a legitimate purpose is not a security breach, provided that the personal information is not used for a purpose other than a lawful purpose of the business and is not subject to further unauthorized disclosure.

*Why is the term different here?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03M .0402 is readopted as published in 32-19 NCR 1841 as follows:  
2

3 **04 NCAC 03M .0402** ~~AMENDMENTS TO INFORMATION ON FILE WITH THE COMMISSIONER~~  
4 **INFORMATION SECURITY BREACHES**

5 ~~(a) A licensee shall notify the Commissioner within 30 days of any material change in any document or information~~  
6 ~~previously submitted to, or otherwise filed with, the Commissioner.~~

7 ~~(b) (a) Upon a licensee's discovery of an information security breach as defined in G.S. 75-61(14), the licensee or~~  
8 ~~registrant shall within one business day provide to the Commissioner a copy of any notification which the licensee~~  
9 ~~that is required to give under pursuant to G.S. 75-65.~~

10 ~~(c) (b) Notification by the licensee or registrant shall be in accordance with Rule .0102 of this Subchapter.~~

11

12 *History Note:* Authority G.S. 53-244.105(b); 53-244.118;

13 *Eff. April 1, 2003;*

14 *Amended Eff. May 1, 2010; April 1, 2008; 2008;*

15 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03M .0403

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (c), isn't this based upon G.S. 53-244.100? If so, please put this in your History Note.*

*In the History Note, line 18, there is no G.S. 53-100.53. What citation did you intend to insert?*

*Also in the History Note, please state "53-244.114(b)" (replacing the colon with a dash).*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03M .0403 is readopted as published in 32-19 NCR 1841 as follows:  
2

### 3 **04 NCAC 03M .0403      TERMINATION OF OPERATIONS OR EMPLOYMENT**

4 (a) A licensee or registrant shall notify the Commissioner in writing of its decision to cease operations ~~as a~~  
5 ~~mortgage lender, mortgage servicer, or mortgage broker~~ in this State, and the anticipated effective date of the  
6 cessation of operations, at least 15 days before the cessation.

7 (b) A mortgage lender, mortgage servicer, or mortgage broker that has not originated or serviced a mortgage loan  
8 within a ~~12-month~~ 12-month period is considered to have ceased operations. A mortgage origination support  
9 registrant that has not processed or underwritten a mortgage loan within a 12-month period is considered to have  
10 ceased operations. Cessation of operations is grounds for summary suspension pursuant to G.S. ~~53-244.114(b);~~  
11 ~~provided, however, 53-244.114(b).~~ However, that suspension for cessation of operations shall not extend or revive  
12 any license that would otherwise terminate on December 31st based on the ~~licensee's~~ person's failure to renew its  
13 license or registration or the Commissioner's refusal to renew the ~~licensee's license.~~ license or registration.

14 (c) A mortgage broker, mortgage lender, mortgage servicer, or mortgage origination support registrant shall not  
15 sponsor a mortgage loan originator who is not an employee of the person and shall notify the Commissioner within  
16 30 days of the termination of the individual mortgage loan originator's employment and sponsorship.

17

18 *History Note:*      Authority G.S. 53-100.53; 53-244:114(b); 53-244.118;

19                              Eff. April 1, 2003;

20                              Amended Eff. May 1, 2010; April 1, ~~2008.~~ 2008;

21                              Readopted Eff. August 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03M .0501

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 6, what is "purpose"? Does your regulated public know?*

*In (b), line 8, the use of "at least" is generally disfavored in rules, as rules set the minimum standard. Do you need to retain it here?*

*On line 10, what is an "efficient review" and how will they know that? I note that in (c), you have clearer standards of what you are looking for.*

*In (d)(4), line 20, define "fully"*

*In (d)(5), line 21, replace the comma after "closed" with a colon.*

*In (d)(5)(A), line 22, the terms "closing disclosure" and "settlement statement"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03M .0501 is readopted as published in 32-19 NCR 1842 as follows:  
2

### 3 **04 NCAC 03M .0501 RECORDS TO BE MAINTAINED**

4 (a) A licensee shall maintain or cause to be maintained a record of all cash, ~~checks~~ checks, or other monetary  
5 instruments received in connection with each mortgage loan application showing the identity of the payor, date  
6 received, amount, and purpose.

7 (b) A licensee shall maintain a record showing a sequential listing of checks written for each bank account relating  
8 to the licensee's business as a mortgage broker or mortgage lender, showing at least the payee, amount, date, and  
9 purpose of payment, including identification of the loan to which it ~~relates, if any.~~ relates. The licensee shall  
10 reconcile the bank accounts monthly. Financial records ~~must~~ shall be kept in a manner to permit efficient review by  
11 examiners.

12 (c) A licensed mortgage lender or mortgage broker shall maintain a current listing of all mortgage loan applications  
13 in an electronic, ~~searchable~~ searchable, and sortable format that permits a ~~timely~~ review of information by the  
14 Commissioner.

15 (d) A licensed mortgage lender or mortgage broker shall create and retain a file for each mortgage loan application  
16 that contains ~~as applicable;~~ the following, as applicable:

- 17 (1) the applicant's name;
- 18 (2) date the application was taken;
- 19 (3) name of the person taking the application;
- 20 (4) the fully executed application itself; and
- 21 (5) if the loan was closed,
  - 22 (A) the closing disclosure or HUD-1 Settlement Statement; ~~settlement statement~~;
  - 23 (B) the loan note;
  - 24 (C) the deed of trust;
  - 25 (D) all agreements or contracts with the applicant, including any commitment and lock-in  
26 agreements, and other information utilized in the origination of the mortgage loan; and
  - 27 (E) all disclosures required by State or Federal law.

28 (e) A licensed mortgage servicer shall create and retain a file for each mortgage loan ~~which that it services, which~~  
29 ~~shall contain, as applicable;~~ services that contains the following:

- 30 (1) the borrower or borrowers names;
- 31 (2) a copy of the original note and ~~Deed deed of Trust;~~ trust;
- 32 (3) a copy of any disclosures or notifications provided to the borrower required by State or Federal  
33 law;
- 34 (4) a copy of all written requests for information received from the borrower and the servicer's  
35 response to ~~such~~ the requests as required by State or Federal law;
- 36 (5) a record of all payments received from the borrower ~~which that~~ contains all information required  
37 to be provided to a borrower upon request under G.S. ~~45-92(2)b;~~ 45-93(2)b;

- 1 (6) a copy of any bankruptcy plan approved in a proceeding filed by the borrower or a co-owner of the  
2 property subject to the mortgage;
- 3 (7) a communications log, if maintained by the servicer, ~~which~~ that documents all verbal  
4 communication with the borrower or the borrower's representative;
- 5 (8) a record of all efforts by the servicer to comply with the duties required under G.S. 53-244.110(7)  
6 including all information utilized in the servicer's determination regarding loss mitigation  
7 proposals offered to the borrower;
- 8 (9) a copy of all notices sent to the borrower related to any foreclosure proceeding filed against the  
9 encumbered property; and
- 10 (10) records regarding the final disposition of the loan including a copy of any collateral release  
11 document, records of servicing transfers, charge-off information, or ~~REO~~ real estate owned  
12 disposition.

13 (f) A licensee shall maintain a record of samples of each piece of advertising relating to the licensee's business of  
14 mortgage lending or mortgage brokerage in North Carolina for a period of 12 months.

15 (g) A licensee shall maintain copies of all contracts, ~~agreements~~ agreements, and escrow instructions to or with any  
16 depository institution, ~~any~~ mortgage lender, mortgage servicer, ~~or~~ mortgage broker, ~~any~~ warehouse lender or other  
17 funding facility, ~~any~~ servicer of mortgage loans, and ~~any~~ investor, for a period of ~~not less than~~ three years after  
18 expiration of ~~any such~~ the contract or agreement.

19

20 *History Note:* Authority G.S. 53-244.105; 53-244.115; 53-244.118;

21 *Eff. April 1, 2003;*

22 *Amended Eff. May 1, 2010; April 1, ~~2008~~. 2008;*

23 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03M .0502

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), this is duplicative of Rule 03M .0501(f) and (g). Why are you restating this here?*

*In (b), line 9, convertible by whom? This seems particularly important in light of the language in (d)(2).*

*In (d), line 13, consider just stating "the State" or "North Carolina" as it seems duplicative to state both.*

*On line 13, what is "accessible"? Does this prevent a locked storage unit? Or is this to state that the Commissioner cannot be barred?*

*Also on line 13, please insert an "a" before "licensee"*

*In (d)(2), line 20, replace "which" with "that"*

*In Paragraph (f), it seems that a change of location is a "material fact" and that changing it is a "material change" as defined in Rule 03M .0101. So, doesn't the timeline of 60 days apply to this material change, as set forth in Rule .0202?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03M .0502 is readopted as published in 32-19 NCR 1842 as follows:  
2

### 3 **04 NCAC 03M .0502 FORM AND LOCATION OF RECORDS**

4 (a) Except for samples of advertising materials retained pursuant to 4 NCAC 03M .0501(f), all records required by  
5 this Section shall be kept for a period of ~~at least~~ three years, and ~~shall be~~ available for inspection and copying upon  
6 request by the Commissioner.

7 (b) The records may be maintained in ~~the any form of magnetic tape, magnetic disk or other form of computer,~~  
8 ~~electronic or microfilm media available for examination on the basis of computer printed reproduction, video~~  
9 ~~display or other medium~~ that is easily convertible by the Commissioner into legible, tangible documents.

10 (c) All records required by this ~~Rule~~ Section shall be prepared in accordance with generally accepted accounting  
11 principles, where applicable.

12 (d) All records required to be maintained shall be secured against unauthorized access and damage in a location  
13 within the State of North Carolina accessible to the Commissioner. However, ~~a mortgage banking licensee or~~  
14 ~~registrant which that~~ maintains a centralized out-of-state storage facility for the records from multiple states may  
15 request the Commissioner to approve its storage of such records in such out-of-state location. The requests ~~will~~  
16 shall be approved provided that:

17 (1) ~~The the~~ Commissioner determines that the proposed storage will ensure that the records are  
18 secured against unauthorized access and damage; and

19 (2) ~~The the~~ licensee or registrant agrees in writing to make available at its expense for inspection and  
20 copying upon request by the Commissioner copies of all requested records in a form which  
21 satisfies the requirements of Paragraph (b) of this Rule.

22 (e) If the Commissioner ~~subsequently~~ has reason to believe that records are not or will not be ~~adequately~~ secured  
23 against unauthorized access or damage, the Commissioner shall summarily revoke any approval ~~previously~~ granted  
24 under Paragraph (d) of this Rule.

25 (f) A licensee or registrant shall notify the Commissioner of any change in the location of its books and records  
26 within ~~10~~ 15 days following such change.

27

28 *History Note: Authority G.S. 53-244.105; 53-244.115; 53-244.118;*

29 *Eff. April 1, 2003;*

30 *Amended Eff. May 1, ~~2010~~ 2010;*

31 *Readopted Eff. August 1, 2018.*

32

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03M .0602

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a)(2)(B), line 17, should you have retained "points"? Currently, the sentence reads "bona fide discount that are..."*

*IN (c)(29), I do not believe "commercially reasonable" is hyphenated.*

*In (d), line 33, insert a "the" before "lender"*

*In the History Note, please separate the citations using semicolons.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03M .0602 is readopted as published in 32-19 NCR 1842 as follows:  
2

### 3 **04 NCAC 03M .0602 SELLER DISCOUNTS FOR USE OF AFFILIATED MORTGAGE LENDER OR** 4 **BROKER**

5 (a) A mortgage lender or mortgage broker shall not originate a mortgage loan if the use of that mortgage lender or  
6 mortgage broker is a condition for the borrower to receive a discount or thing of value from a seller affiliated with  
7 the mortgage lender or mortgage broker, unless:

8 (1) the discount conditioned on the use of the mortgage lender or mortgage broker is disclosed  
9 ~~separately~~ on a separate document from any other discount provided by the seller in a written  
10 document that informs the borrower that the choice of a lender not affiliated with the seller will  
11 not affect any other concessions or discounts ~~separately~~ offered to the borrower for the purchase of  
12 the home, other than the incentive offered for the use of the affiliated lender;

13 (2) the discount conditioned on the use of the mortgage lender or mortgage broker may be used to pay  
14 only the following:

15 (A) bona fide and reasonable closing costs associated with the loan as permitted under G.S.  
16 24-8(d); and

17 (B) bona fide discount ~~points, which that~~ are knowingly paid by the borrower for the purpose  
18 of reducing the interest rate below the market rate for that loan product and which in fact  
19 reduces the interest rate below the market rate for that loan product; and

20 (3) the discount does not exceed three percent of the final sales price.

21 (b) For any discount used as described in Part (a)(2)(B) of this Rule, the following documents ~~must~~ shall be  
22 maintained in the individual loan file:

23 (1) the disclosure required under Subparagraph (a)(1) of this Rule;

24 (2) the rate sheet used by the mortgage lender or mortgage broker to inform the borrower of the  
25 available interest rate of the loan; and

26 (3) the signed lock-in agreement that demonstrates the below-market rate chosen by the borrower.

27 (c) For any discount used as described in Part (a)(2)(B) of this Rule, the mortgage lender ~~must~~ shall maintain  
28 written policies and procedures related to the charging of discount points, which include the method of informing  
29 borrowers of the benefits and costs of discount points and a commercially-reasonable method for determining the  
30 amount by which the interest rate will be reduced for the payment of a discount point.

31 (d) The discount provided ~~for~~ in Paragraph (a) of this Rule shall not be applied in a manner that would exceed  
32 amounts ~~which that~~ may be directly imposed under North Carolina or Federal ~~law~~; law related to mortgage lending  
33 or mortgage servicing regardless of whether a party affiliated with lender directly or indirectly pays for any portion  
34 of such charges.

35  
36 *History Note: Authority G.S. 53-244.111(1); 53-244.111(8), 53-244.118(a);*

37 *Eff. April 1, 2011- 2011;*

38 *Readopted Eff. August 1, 2018.*

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03M .0701 is readopted as published in 32-19 NCR 1842 as follows:  
2

3 **04 NCAC 03M .0701 TRANSFER OF SERVICING RIGHTS**

4 A person shall not transfer servicing rights or obligations to a person unless that person holds a mortgage servicing  
5 license or is a person ~~otherwise~~ exempt from the ~~Act~~. Act pursuant to G.S. 53-244.040.  
6

7 *History Note: Authority 53-244.100(a); 53-244.110(1); 53-244.110(3);*

8 *Eff. May 1, ~~2010~~ 2010;*

9 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03M .0702

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 5, please either remove the coma after "acknowledge" or put the comma back in after "writing"*

*On line 6, I take it the mortgage servicer will determine what is needed?*

*On line 9, should there be a "by" before "contacting"?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03M .0702 is readopted as published in 32-19 NCR 1842 as follows:  
2

3 **04 NCAC 03M .0702 REQUIREMENTS FOR MORTGAGE SERVICERS TO COMMUNICATE**  
4 **EFFECTIVELY WITH BORROWERS REGARDING LOSS MITIGATION**

5 (a) A mortgage servicer shall acknowledge, in ~~writing~~, writing a borrower's loss mitigation request no later than 10  
6 business days after the request. The acknowledgement ~~must~~ shall identify ~~any~~ information needed from the  
7 borrower in order for the mortgage servicer to consider the borrower's loss mitigation request. For purposes of this  
8 Rule and Rule .0703 of this Subchapter, a loss mitigation request is considered received by a servicer upon the  
9 borrower or the borrower's agent contacting the servicer at the address, ~~phone~~ phone, or other contact information  
10 required to be provided to borrowers in a notice complying with G.S. 53-244.111(22).

11 (b) A mortgage servicer shall respond to a loss mitigation request from a borrower no later than 30 business days  
12 after the receipt of all information necessary from the borrower to assess whether or not a borrower qualifies for any  
13 loss mitigation programs offered by the mortgage servicer.

14 (c) A mortgage servicer shall include in a final response denying a loss mitigation request the reason for the denial  
15 and contact information for a person at the mortgage servicer with authority to reconsider the denial. In addition, the  
16 denial shall also include the following statement, in a boldface type and in a print no smaller than the largest print  
17 used elsewhere in the main body of the denial: "If you believe the loss mitigation request has been wrongly denied,  
18 you may file a complaint with the North Carolina Office of the Commissioner of Banks website, [www.nccob.gov](http://www.nccob.gov)."  
19

20 *History Note: Authority G.S. 53-244.110(7); 53-244.118(a);*

21 *Eff. June 1, 2010; ~~2010~~;*

22 *Readopted Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Office of the Commissioner of Banks

RULE CITATION: 04 NCAC 03M .0703

**DEADLINE FOR RECEIPT: Friday, July 13, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On the Submission for Permanent Rule form, the name of the Rule in Box 2 does not match the name on the Rule. Please change the form or the rule to be consistent.*

*In (a)(1)(A), line 10, please capitalize "State" and consider capitalizing "federal" to be consistent with other rules.*

*In (a)(2), line 15, what is a "final response"? Does your regulated public know?*

*In (a)(3), line 18, consider saying "has had any bankruptcy..."*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 28, 2018

## Permanent Amendment for Publication in the NCAC

1 04 NCAC 03M .0703 is readopted as published in 32-19 NCR 1842 as follows:  
2

3 **04 NCAC 03M .0703 CESSATION OF FORECLOSURE ACTIVITY DURING PENDENCY OF LOSS**  
4 **MITIGATION REQUEST**

5 (a) A mortgage servicer shall not initiate or further a foreclosure proceeding or impose a charge incident to a  
6 foreclosure proceeding during the pendency of a loss mitigation request; ~~provided however, that this request.~~ This  
7 requirement does not apply if:

- 8 (1) the borrower has failed to comply with the terms of a loss mitigation plan within the previous 12  
9 months, if the loss mitigation plan:  
10 (A) was implemented pursuant to a federal or state foreclosure prevention program, including  
11 the Home Affordable Modification Program; or  
12 (B) reduced the monthly payment of loan by six percent from the scheduled monthly  
13 payment and resulted in a monthly payment of principal, interest, taxes, and insurance of  
14 less than 31 percent of the borrower's household income;  
15 (2) the mortgage servicer has provided a final response regarding a loss mitigation request within the  
16 last 12 months and ~~reasonably~~ believes that the current loss mitigation request was not made in  
17 good faith;  
18 (3) the borrower has failed to comply with a Chapter 13 bankruptcy repayment plan or has any  
19 bankruptcy proceedings dismissed for abuse of process within the last 12 months;  
20 (4) the loss mitigation request is received by the servicer after the time for appealing an order granting  
21 foreclosure of the secured residential real estate has passed in accordance with Article 2A of  
22 Chapter 45; or  
23 (5) the servicing contract or the terms of the mortgage loan, entered into prior to October 1, 2009,  
24 prohibits such a delay.

25 (b) Nothing in this Rule shall prevent a mortgage servicer, in order to avoid dismissal or any other adverse order in  
26 a foreclosure proceeding ~~which that~~ was initiated prior to the loss mitigation request being received, from filing or  
27 causing to be filed any pleading or notice ~~which that~~ is required under Article 2A of Chapter 45, the Rules of Civil  
28 Procedure, or the Local Rules of Court to continue or delay further proceedings.  
29

30 *History Note:* Authority G.S. 53-244.110(7); 53-244.118(a);  
31 *Eff. June 1, 2010, 2010;*  
32 *Readopted Eff. August 1, 2018.*