

Permanent Amendment for Publication in the NCAC

04 NCAC 03K .0404 was proposed for readoption as published in 32-19 NCR 1836 but is now repealed in response to the RRC objection:

04 NCAC 03K .0404 WITHDRAWAL/TERMINATION OF AUTHORIZATION AS REVERSE MTD. MORTGAGE LENDER

~~(a) 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.~~

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

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

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

Eff. January 1, 1995. 1995;

Repealed Eff. September 1, 2018.



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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6714 Mail Service Center
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1711 New Hope Church Rd
Raleigh, NC 27609-6285

July 19, 2018

Lonnie Christopher, Rulemaking Coordinator
NC Office of the Commissioner of Banks
Sent via email only: lcchristopher@nccob.gov

Re: Rule 04 NCAC 03K .0404

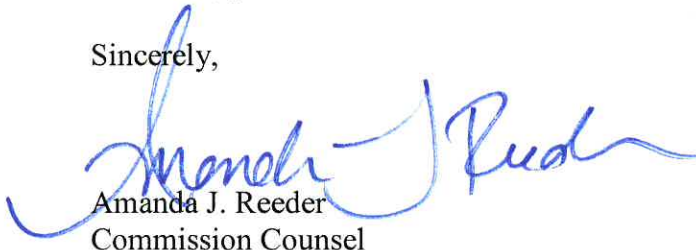
Mr. Christopher:

At its meeting today, the Rules Review Commission objected to the above-captioned Rule in accordance with G.S. 150B-21.10.

The Commission objected to this Rule based on lack of necessity. The Commission found that as proposed for amendment, the entire content of this Rule is already stated in Rule 04 NCAC 03K .0203(a). As the contents of this Rule are addressed elsewhere in this Subchapter of the NC Administrative Code, the Commission found the Rule was not necessary as amended.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's action, please let me know.

Sincerely,



Amanda J. Reeder
Commission Counsel

cc: Katie Bosken, Attorney

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919/431-3000
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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
- ☒ Object, based on:
 - ☐ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☒ 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

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

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

(a) 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.

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

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

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

Readopted Eff. August 1, 2018.