

Document No. 4257  
**STATE BOARD OF FINANCIAL INSTITUTIONS**  
**CONSUMER FINANCE DIVISION**  
CHAPTER 15  
Statutory Authority: 1976 Code Sections 37-22-110 et seq.,  
particularly Section 37-22-260

15-64. Mortgage Lending

**Synopsis:**

The South Carolina State Board of Financial Institutions - Consumer Finance Division seeks to add regulation 15-64 in order to comply with the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act) and with rules issued by the United States Department of Housing and Urban Development (HUD). Further, state-specific items in the South Carolina Mortgage Lending Act will be clarified or modified to meet the statutory requirements of both the S.A.F.E. Act and HUD rules.

The Notice of Drafting was published in the *State Register* on October 28, 2011.

**Instructions:**

Print the new regulation exactly as shown below.

**Text:**

ARTICLE 4

MORTGAGE LENDING ACT REGULATIONS

15-64. Mortgage Lending.

A. Definitions shall be those contained in the Mortgage Lending Act, S.C. Code Ann. Section 37-22-110 et seq.; Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 USC 5101, et seq.; SAFE Mortgage Licensing Act, 24 CFR Part 3400 and the following:

(1) Act – means the South Carolina Mortgage Lending Act, S.C. Code Ann. Section 37-22-110 et seq.

(2) Day – means all calendar days including Saturdays, Sundays and legal public holidays.

(3) Employee for purposes of compliance with the federal income tax laws – means a natural person whose manner and means of performance of work are subject to the right of control of, or are controlled by, a person, and whose compensation for federal income tax purposes is reported, or required to be reported, on a W-2 form issued by the controlling person. (See IRS Publication 1779 and Form SS-8)

(4) Notice – means written notification received by the Commissioner within seven (7) days of any change except as defined in Section 37-22-180(A)

(5) Prior Written Consent – means written consent given by the Commissioner authorizing a change of control prior to that change of control taking place. To request authorization from the Commissioner, all information regarding acquisition via stock purchase or other device must be sent to the Commissioner at least 30 days prior to the change of control.

#### B. Use of NMLS&R unique identifier

(1) The Nationwide Mortgage Licensing System & Registry (NMLS&R) unique identifier for the licensed Mortgage Lender/Servicer, the licensed Branch Office and the licensed Mortgage Loan Originator must be displayed on all mortgage loan applications. Only the unique identifier of the licensed Mortgage Lender/Servicer is required to be displayed on all other mortgage loan forms.

(2) For advertising purposes, the NMLS&R unique identifier of the licensed Mortgage Lender/Servicer and, if included in the advertisement, the licensed Mortgage Loan Originator must be used in all advertising as it is defined in the Act.

C. All South Carolina residential mortgage loans secured by real property are subject to the provisions of all South Carolina and federal law related to mortgage loans including, but not limited to, the Real Estate Settlement Procedures Act of 1974 (RESPA), 12 USC Section 2601 et seq..

#### D. Reports

(1) The Mortgage Log required pursuant to Section 37-22-210 shall:

(a) be completed electronically as required by the Consumer Finance Division. The licensee is responsible for all costs associated with the electronic filing, and

(b) include all mortgage loans or applications where a credit report is requested, regardless of whether a mortgage loan is originated or modified.

(2) The Annual Report required by Section 37-22-220 shall include, in addition to other statutory requirements, a Mortgage Call Report (See Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 USC 5101 et seq.; SAFE Mortgage Licensing Act, 24 CFR part 3400 and Staff Commentary) consisting of:

(a) a loan activity report submitted electronically on a quarterly basis as required by the Nationwide Mortgage Licensing System & Registry (NMLS&R) by the Mortgage Lender/Servicer for all locations and loan originators, and

(b) a corresponding financial condition report submitted electronically as required by the Nationwide Mortgage Licensing System & Registry (NMLS&R).

E. An applicant must supply required information to the Consumer Finance Division pursuant to Section 37-22-140(M) within 120 days of initial submission or the application will be abandoned as incomplete.

#### **Fiscal Impact Statement:**

The Consumer Finance Division estimates that the additional costs incurred by the State in complying with the proposed regulation will be approximately \$0.

#### **Statement of Rationale:**

The South Carolina Mortgage Lending Act (Act) specifically provides for the Commissioner of the Consumer Finance Division of the South Carolina State Board of Financial Institutions to promulgate regulations necessary to effectuate the purposes of the Act. Regulation 15-64 is being added to clarify mortgage licensing requirements imposed by the Act and to ensure conformity between the Act and federal law.