

SOUTH CAROLINA STATE REGISTER

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This issue contains notices, proposed regulations, emergency regulations, final form regulations, and other documents filed in the Office of the Legislative Council, pursuant to Article 1, Chapter 23, Title 1, Code of Laws of South Carolina, 1976.

SOUTH CAROLINA STATE REGISTER

An official state publication, the *South Carolina State Register* is a temporary update to South Carolina's official compilation of agency regulations--the *South Carolina Code of Regulations*. Changes in regulations, whether by adoption, amendment, repeal or emergency action must be published in the *State Register* pursuant to the provisions of the Administrative Procedures Act. The *State Register* also publishes the Governor's Executive Orders, notices or public hearings and meetings, and other documents issued by state agencies considered to be in the public interest. All documents published in the *State Register* are drafted by state agencies and are published as submitted. Publication of any material in the *State Register* is the official notice of such information.

STYLE AND FORMAT

Documents are arranged within each issue of the *State Register* according to the type of document filed:

Notices are documents considered by the agency to have general public interest.

Notices of Drafting Regulations give interested persons the opportunity to comment during the initial drafting period before regulations are submitted as proposed.

Proposed Regulations are those regulations pending permanent adoption by an agency.

Pending Regulations Submitted to the General Assembly are regulations adopted by the agency pending approval by the General Assembly.

Final Regulations have been permanently adopted by the agency and approved by the General Assembly.

Emergency Regulations have been adopted on an emergency basis by the agency.

Executive Orders are actions issued and taken by the Governor.

2015 PUBLICATION SCHEDULE

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations*.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made by **5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/9	2/13	3/13	4/10	5/8	6/12	7/10	8/14	9/11	10/9	11/13	12/11
Publishing Date	1/23	2/27	3/27	4/24	5/22	6/26	7/24	8/28	9/25	10/23	11/27	12/25

REPRODUCING OFFICIAL DOCUMENTS

Documents appearing in the *State Register* are prepared and printed at public expense. Media services are encouraged to give wide publicity to documents printed in the *State Register*.

PUBLIC INSPECTION OF DOCUMENTS

Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 212-4500.

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

To adopt, amend or repeal a regulation, an agency must publish in the *State Register* a Notice of Drafting; a Notice of the Proposed Regulation that contains an estimate of the proposed action's economic impact; and, a notice that gives the public an opportunity to comment on the proposal. If requested by twenty-five persons, a public hearing must be held at least thirty days after the date of publication of the notice in the *State Register*.

After the date of hearing, the regulation must be submitted to the General Assembly for approval. The General Assembly has one hundred twenty days to consider the regulation. If no legislation is introduced to disapprove or enacted to approve before the expiration of the one-hundred-twenty-day review period, the regulation is approved on the one hundred twentieth day and is effective upon publication in the *State Register*.

EMERGENCY REGULATIONS

An emergency regulation may be promulgated by an agency if the agency finds imminent peril to public health, safety or welfare. Emergency regulations are effective upon filing for a ninety-day period. If the original filing began and expired during the legislative interim, the regulation can be renewed once.

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

Regulations promulgated to comply with federal law are exempt from General Assembly review. Following the notice of proposed regulation and hearing, regulations are submitted to the *State Register* and are effective upon publication.

EFFECTIVE DATE OF REGULATIONS

Final Regulations take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.

Emergency Regulations take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be refiled for one additional ninety-day period.

Document No. 4548
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(A)&(B)

15-64. Mortgage Lending

Synopsis:

The South Carolina State Board of Financial Institutions - Consumer Finance Division seeks to amend 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 Consumer Financial Protection Bureau (CFPB). 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 CFPB rules.

The Notice of Drafting was published in the *State Register* on October 24, 2014.

Instructions:

Print the amended 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.; S.A.F.E. Act, 12 CFR Parts 1007 & 1008 et seq.; 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. The NMLS&R unique identifier of the Mortgage Lender/Servicer and the unique identifier of the Mortgage Loan Originator must also be placed on the Promissory Note or Loan Contract and the Security Agreement as well as any other documents required by 12 CFR 1026.36(g). 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, an Expanded Mortgage Call Report (See Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 USC 5101 et seq.; SAFE Mortgage Licensing Act, 12 CFR parts 1007 & 1008 et seq. consisting of:

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(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).

(3) The Commissioner at his or her discretion may require or accept an Expanded Mortgage Call Report filed through the Nationwide Mortgage Licensing System & Registry (NMLS&R) or similar filing in lieu of the annual report required in 37-22-220(B).

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.

F. The Nationwide Mortgage Licensing System & Registry (NMLS&R) may be used to store the List required by Section 37-22-210(A) and the Roster required by Section 37-22-210(B) in lieu of the Commissioners' office so long as the information may be provided in a reasonable time upon request.

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 and to waive or modify, in whole or in part, by rule, regulation, or order, any or all of the requirements of this chapter and establish new requirements as reasonably necessary to participate in the Nationwide Mortgage Licensing System and Registry (NMLS&R). Regulation 15-64 is being amended to further clarify mortgage licensing requirements imposed by the Act, to modify those requirements where reasonable to facilitate the use of the NMLS&R as directed in Section 37-22-270 and to ensure conformity between the Act and federal law.