

§ 53-244.040. License and registration requirements.

(a) Except as provided in subsection (d) of this section, no person may engage in the mortgage business or act as a mortgage loan originator with respect to any dwelling located in this State without first obtaining and maintaining a license under this Article. It shall be unlawful for any person, other than an exempt person or a person licensed as a transitional mortgage loan originator, to act as a mortgage loan originator without a mortgage loan originator license, which authorizes an individual who is employed by a licensee holding a license as provided in subsection (b) of this section to conduct the business of a mortgage loan originator.

(a1) In anticipation of satisfaction of all requirements necessary to obtain a license as a mortgage loan originator under this Article, a transitional mortgage loan originator license may be granted to an individual who has an active license to originate mortgage loans pursuant to the laws of any state or territory of the United States other than North Carolina, provided the individual registers, is fingerprinted, and maintains a unique identifier with the Nationwide Mortgage Licensing System and Registry at the time the individual submits a transitional mortgage loan originator application to the Commissioner. A transitional mortgage loan originator license may also be issued to a registered loan originator for the purpose of satisfying all requirements necessary to obtain a license as a mortgage loan originator under this Article if permitted by a guideline, rule, regulation, or interpretive letter which clarifies section 1503 of Title V of the Housing and Economic Recovery Act of 2008, P.L. 110-289, and only to the extent of such an issuance or determination.

(b) Four types of licenses are granted to entities under this Article, and it shall be unlawful for any person, other than an exempt person, to engage in the mortgage business without one of the following licenses:

- (1) A mortgage broker license authorizes a person to act as a mortgage broker as defined in G.S. 53-244.030(19).
- (2) A mortgage lender license authorizes a person to act as a mortgage lender as defined in G.S. 53-244.030(20), a mortgage broker as defined under G.S. 53-244.030(19), and upon notice to the Commissioner, a mortgage servicer as defined in G.S. 53-244.030(22).
- (3) A mortgage servicer license authorizes a person to act only as a mortgage servicer as defined in G.S. 53-244.030(22).
- (4) An exclusive mortgage broker license authorizes a person to act as an exclusive mortgage broker as defined in G.S. 53-244.030(11a).

(c) Each mortgage loan originator and person engaged in the mortgage business must register with and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

(c1) A registrant operating in this State must register with the Commissioner. Upon issuance of the registration, a registrant is authorized to sponsor and employ licensed mortgage loan originators or transitional mortgage loan originators to control and supervise the registrant's loan processors or underwriters in accordance with Title V of the Housing and Economic Recovery Act of 2008, P.L. 110-289, and 24 C.F.R. 3400. Nothing in this subsection shall be construed as authorizing a registrant to engage in the mortgage business.

(d) The following are exempt from all provisions of this Article except the provisions of G.S. 53-244.111:

- (1) Registered mortgage loan originators as defined in G.S. 53-244.030(29);
- (2) Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual when making the family member a residential mortgage loan;

- (3) Any individual seller who offers or negotiates terms and makes a residential mortgage loan secured by the dwelling that served as the selling individual's residence;
- (4) An attorney licensed pursuant to Chapter 84 of the General Statutes who negotiates the terms of a residential mortgage loan on behalf of a client in the course of and incident to the attorney's representation of the client, so long as the attorney does not hold himself out as engaged in the mortgage business and is not compensated by a mortgage lender, a mortgage broker, or other mortgage loan originator when negotiating the terms of a residential mortgage loan;
- (5) Any entity described in G.S. 53-244.030(29)a., b., or c., upon acceptance of the notice of exemption filed with the Commissioner as specified in G.S. 53-244.050(g);
- (6) Any officer or employee of an entity described in subdivision (5) of this subsection when acting within the scope of his or her employment;
- (7) A State or federally chartered credit union, upon filing of a notice of exemption with the Administrator of the Credit Union Division of the Department of Commerce as specified in G.S. 53-244.050(g); or
- (8) Any person who, as seller, receives in one calendar year no more than five residential mortgage loans as security for purchase money obligations, unless the United States Department of Housing and Urban Development has expressly and definitively determined that such persons are loan originators as the term is defined by § 1503 of Title V of the Housing and Economic Recovery Act of 2008, Public Law 110-289, and such determination is in effect on July 31, 2010.

(e) Each mortgage broker, mortgage lender, or mortgage servicer licensed under this Article, or registrant registered under this Article, shall have a qualifying individual who operates the business under that person's full charge, control, and supervision. Each mortgage broker, mortgage lender, or mortgage servicer licensed under this Article, or registrant registered under this Article, shall file through the Nationwide Mortgage Licensing System and Registry a form acceptable to the Commissioner indicating the licensee's designation of a qualifying individual and each qualifying individual's acceptance of the responsibility. Each mortgage broker, mortgage lender, or mortgage servicer licensed under this Article, or registrant registered under this Article, shall notify the Commissioner within 15 days of any change in its designated qualifying individual. Any individual licensee who operates as a sole proprietorship shall qualify as and be considered the qualifying individual for the purposes of this subsection.

(f) Mortgage lenders and mortgage brokers may not operate branch offices, except as permitted by this Article. Each principal office and each branch office of a mortgage broker or mortgage lender licensed under this Article shall have a branch manager who meets the experience requirements under G.S. 53-244.050(b). The qualifying individual for a licensee's business also may serve as the branch manager of one of the licensee's branch offices. Each mortgage broker or mortgage lender licensed under this Article shall file through the Nationwide Mortgage Licensing System and Registry a form acceptable to the Commissioner indicating the licensee's designation of branch manager for each branch. Each mortgage broker or mortgage lender licensed under this Article shall notify the Commissioner within 15 days of the change of any branch manager. (2009-374, s. 2; 2009-570, s. 48; 2013-327, s. 2; 2015-293, s. 1.)