

**§ 53-244.030. Definitions.**

For purposes of this Article, the following definitions apply:

- (1) Affiliate. – Any company that controls, is controlled by, or is under common control with another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. § 1841, et seq.)
- (2) Audited statement of financial condition. – A statement of financial condition prepared in accordance with generally accepted accounting principles and certified by a certified public accountant as fairly and accurately reflecting the financial condition of the licensee as of the date specified.
- (2a) Banking Commission. – The North Carolina Banking Commission.
- (2b) Bona fide nonprofit. – Has the same meaning as in 12 C.F.R. § 1008.103(e)(7)(ii).
- (3) Branch manager. – A mortgage loan originator who meets the requirements of G.S. 53-244.050(b), has at least three years of residential mortgage lending experience, and is assigned to, in charge of, and responsible for the business operations of a branch office.
- (4) Branch office. – An office of a mortgage broker or mortgage lender that is open to the public, separate and distinct from the principal office, and consists of at least one enclosed room or building of stationary construction from which its employees engage in the mortgage business. A branch office shall not be located at an individual's home or residence.
- (5) Certified statement of financial condition. – A statement of financial condition prepared in accordance with generally accepted accounting principles and certified by the preparer or licensee as fairly and accurately reflecting the financial condition of the licensee as of the date specified.
- (6) Commissioner. – The North Carolina Commissioner of Banks and the Commissioner's designees.
- (7) Control. – The power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any person that (i) is a director, general partner, or executive officer; (ii) directly or indirectly has the right to vote ten percent (10%) or more of a class of voting security or has the power to sell or direct the sale of ten percent (10%) or more of a class of voting securities; (iii) in the case of a limited liability company, is a managing member; or (iv) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten percent (10%) or more of the capital, is presumed to control the company.
- (8) Depository institution. – Has the same meaning as in section 3 of the Federal Deposit Insurance Act, as periodically amended, and includes any credit union whose share and deposit accounts are insured by the National Credit Union Administration under the Federal Credit Union Act, as periodically amended.
- (9) Dwelling. – A residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, manufactured home, mobile home, or trailer if it is used as a residence.
- (10) Employee. – An individual who has an employment relationship with a mortgage broker, mortgage lender, mortgage servicer, or mortgage origination support registrant, who is treated as a common law employee for purposes of compliance with federal income tax laws, and whose income is reported on IRS Form W-2.
- (11) Engaging in the mortgage business. – Any of the following:

- a. For compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, to accept or offer to accept, or to solicit or offer to solicit, an application for a residential mortgage loan, to negotiate terms or conditions of a residential mortgage loan, to issue residential mortgage loan commitments, to issue interest rate guarantee agreements for residential mortgage loans, or to engage in tablefunding of residential mortgage loans, whether any of these acts are done through contact by telephone, by electronic means, by mail, or in person with the borrowers or prospective borrowers.
  - b. To make or fund, offer to make or fund, or advance funds on residential mortgage loans for compensation or gain, or in the expectation of compensation or gain.
  - c. For compensation or gain from another or on one's own behalf, pursuant to the terms of a residential mortgage loan or the servicing documents or contract, to do any of the following:
    - 1. To collect or receive payments on existing obligations due and owing to the mortgage lender or mortgage servicer, including payments of principal, interest, escrow amounts, and other amounts due.
    - 2. To collect fees due to the mortgage lender or mortgage servicer.
    - 3. To work with the borrower and the mortgage lender or mortgage servicer to collect data and make decisions necessary to modify certain terms of those obligations either temporarily or permanently.
    - 4. To finalize collection through the foreclosure process under Chapter 45 of the General Statutes, forfeiture under Chapter 47H of the General Statutes, or repossession.
    - 5. To service a reverse mortgage loan.
  - d. To meet the definition of the term "servicer" in 12 U.S.C. § 2605(i)(2).  
This term does not apply to timeshare instruments, as defined in G.S. 93A-41.
- (11a) Exclusive mortgage broker. – An individual who acts as a mortgage broker exclusively for a single mortgage lender or mortgage broker licensee or a single exempt mortgage lender and who is licensed pursuant to G.S. 53-244.050(b)(3). Unless otherwise indicated, an exclusive mortgage broker is subject to the requirements of a mortgage broker under this Article.
  - (12) Federal banking agency. – The Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the National Credit Union Administration, or the Federal Deposit Insurance Corporation.
  - (13) Immediate family member. – A spouse, child, sibling, parent, grandparent, grandchild, or the spouse of an immediate family member. This term includes stepparents, stepchildren, stepsiblings, and adoptive relationships.
  - (14) Individual. – A human being.
  - (15) Licensee. – A mortgage loan originator, exclusive mortgage broker, mortgage broker, mortgage lender, or mortgage servicer licensed pursuant to this Article.
  - (16) Loan processor or underwriter. – An individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, registered, or exempt from licensing

under this Article. Clerical or support duties may include, subsequent to the receipt of an application, both of the following:

- a. The receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan.
- b. Communicating with a consumer to obtain the information necessary for the processing or underwriting of a residential mortgage loan, to the extent that the communication does not include offering, negotiating, or counseling consumers with respect to residential mortgage loan rates or terms.

Any individual who represents to the public, through advertising or other means of communication, or provides information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator is not deemed to be a loan processor or underwriter under this definition.

- (17) Loss mitigation specialist. – An employee of a mortgage lender or mortgage servicer authorized to (i) collect or receive payments, including payments of principal, interest, escrow amounts, and other amounts due on existing residential mortgage loans when the borrower is in default or when default is imminent, (ii) work with the borrower to collect data, or (iii) make decisions necessary to modify, either temporarily or permanently, certain terms of those residential mortgage loans or to otherwise finalize collection through the foreclosure process. These decisions include any change in the principal amount of the debt, the rate of annual interest charged, the term of the loan, the waiver of any fees or charges, including late charges, the deferral of payments, or any other similar matter.
- (18) Make a residential mortgage loan. – To advance funds, to offer to advance funds, to make a commitment to advance funds to a borrower under a mortgage loan, or to fund a residential mortgage loan.
- (19) Mortgage broker. – A person engaged in the mortgage business as defined in sub-subdivision (11)a. of this section.
- (20) Mortgage lender. – A person engaged in the mortgage business as defined in sub-subdivision (11)b. of this section. However, this term does not include a person that acts as a mortgage lender only in a tablefunding transaction.
- (21) Mortgage loan originator. –
  - a. An individual who for compensation or gain or in the expectation of compensation or gain, whether through contact by telephone, by electronic means, by mail, or in person with prospective borrowers, does any of the following:
    1. Takes a residential mortgage loan application or offers or negotiates the terms or conditions of a residential mortgage loan.
    2. Accepts or offers to accept an application for a residential mortgage loan.
    3. Solicits or offers to solicit an application for a residential mortgage loan.
    4. Repealed by Session Laws 2025-43, s. 1, effective October 1, 2025.

5. Issues residential mortgage loan commitments or interest rate guarantee agreements to prospective borrowers.
- b. Repealed by Session Laws 2025-43, s. 1, effective October 1, 2025.
- c. The term does not include any of the following:
1. An individual engaged solely as a loan processor or underwriter.
  2. A person that only performs real estate brokerage activity and is licensed or registered as such in accordance with State law, unless the person is compensated by a mortgage lender, mortgage broker, or mortgage loan originator.
  3. A person solely involved in extensions of credit or sale of timeshare instruments relating to timeshare plans, as defined in G.S. 93A-41.
  4. An individual who only informs a prospective borrower of the availability of persons engaged in the mortgage business, does not take or assist in the completion of a loan application, and does not discuss specific terms or conditions of a residential mortgage loan. The taking of basic preapplication information for facilitating a residential mortgage loan transaction, such as the name and contact information of the prospective borrower, the prospective borrower's own assessment of creditworthiness, desired loan types, and resources to make a down payment, but not including social security number, credit score, credit or employment history, or specific rates of a desired residential mortgage loan, to connect prospective borrowers to persons engaged in the mortgage business does not prevent an individual from qualifying for this exclusion.
  5. An individual who is a salesperson for a licensed manufactured housing retailer that performs the purely administrative and clerical tasks of physically handling or transmitting to a licensee on behalf of a prospective borrower an application and other forms completed by the prospective borrower. Nothing in this sub-sub-subdivision prohibits a salesperson, upon the written request of a licensee and after a prospective borrower completes an application, from pulling and transmitting a credit report with the application.
  6. An individual acting solely as a loss mitigation specialist under 12 C.F.R. Part 1007, Appendix A, unless the Consumer Financial Protection Bureau amends this regulation to provide that acting as a loss mitigation specialist constitutes taking a loan application.
- (21a) "Mortgage origination support registrant" or "registrant." – A person engaged exclusively in the processing or underwriting of residential mortgage loans and not engaged in the mortgage business.
- (22) Mortgage servicer. – A person that is directly or indirectly engaged in the mortgage business as defined in sub-subdivision (11)c. of this section. This term includes master servicers.
- (23) NMLS. – The Nationwide Mortgage Licensing System and Registry, also known as the Nationwide Multistate Licensing System and Registry, including the State Examination System and any other electronic successor

systems developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing, registration, and supervision of persons under this Article, pursuant to 12 U.S.C. § 5102(6) and 12 C.F.R. Part 1008.

- (24) Nontraditional mortgage product. – Any residential mortgage loan product other than a 30-year fixed rate mortgage.
- (25) Person. – An individual, partnership, limited liability company, limited partnership, corporation, association, or other group engaged in joint business activities however organized.
- (26) Principal office. – A principal place of business that shall consist of at least one enclosed room or building of stationary construction in which negotiations of residential mortgage loan transactions may be conducted and carried on in privacy and in which all of the books, records, and files pertaining to residential mortgage loan transactions relating to borrowers in this State are maintained. A principal office shall not be located at an individual's home or residence.
- (27) Qualifying individual. – An individual who meets the requirements of G.S. 53-244.050(b), has at least three years of residential mortgage lending or servicing experience, and who agrees to be primarily responsible for the operations of a licensee or registrant.
- (28) Real estate brokerage activity. – Any activity that involves offering or providing real estate brokerage services to the public, including any of the following:
  - a. Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property.
  - b. Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property.
  - c. Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to any such transaction.
  - d. Engaging in any activity for which a person is required to be registered or licensed as a real estate agent or real estate broker under Chapter 93A of the General Statutes.
  - e. Repealed by Session Laws 2025-43, s. 1, effective October 1, 2025.
- (29) Registered mortgage loan originator. – Any individual who meets the definition of mortgage loan originator, is registered with and maintains a unique identifier through the NMLS, and is an employee of any of the following:
  - a. A depository institution.
  - b. A subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency.
  - c. An institution regulated by the Farm Credit Administration.
- (30) Residential mortgage loan. – Any loan or obligation made or represented to be made to one or more individuals primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling located within this State or residential real estate upon which is constructed or intended to be constructed a dwelling. This term includes reverse mortgage loans under Article 21 of this Chapter and contracts for deed under Chapter 47H of the General Statutes.

- (31) Residential real estate. – Any real property located in this State upon which is constructed or intended to be constructed a dwelling.
- (32) RESPA. – The Real Estate Settlement Procedures Act, 12 U.S.C. § 2601, et seq.
- (33) Tablefunding. – A transaction in which a person closes a residential mortgage loan in its own name with funds provided by another to which the residential mortgage loan is assigned within one business day of the residential mortgage loan's funding.
- (33a) Repealed by Session Laws 2025-43, s. 1, effective October 1, 2025.
- (34) Unique identifier. – A number or other identifier assigned by protocols established by the NMLS. (2009-374, s. 2; 2009-570, s. 34.1; 2013-327, s. 1; 2015-293, s. 1; 2021-163, s. 2(b); 2025-43, s. 1.)