

§ 53-244.040. License and registration requirements.

(a) Except as provided in subsection (d) of this section, no person shall 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 is unlawful for any individual, other than an exempt individual, to act as a mortgage loan originator without a mortgage loan originator license that authorizes an individual who is employed by a mortgage broker or mortgage lender holding a license as provided in subsection (b) of this section to conduct the business of a mortgage loan originator.

Except as provided in subdivision (c1) of this section, no person shall act as a mortgage origination support registrant with respect to any dwelling located in this State without first obtaining and maintaining a registration under this Article. It is unlawful for any person, other than an exempt person, to act as a mortgage origination support registrant without registration that authorizes a registrant to sponsor and employ licensed mortgage loan originators to control and supervise the registrant's loan processors or underwriters in accordance with this Article, 12 U.S.C. § 5102(5), and 12 U.S.C. § 5103(b).

(a1) In anticipation of satisfaction of all requirements necessary to obtain a license as a mortgage loan originator under this Article, an individual is deemed to have temporary authority to act as a mortgage loan originator in this State to the extent authorized by, and subject to the terms and conditions prescribed in, 12 U.S.C. § 5117. A mortgage lender or mortgage broker that employs an individual who is deemed to have temporary authority to act as a mortgage loan originator in this State pursuant to this section is subject to the requirements of this Article to the same extent as if the individual was a licensed mortgage loan originator. An individual who is deemed to have temporary authority to act as a mortgage loan originator in this State pursuant to this section and acts as a mortgage loan originator is subject to the requirements of this Article to the same extent as if the individual was a licensed mortgage loan originator.

(b) Five types of licenses are granted to persons under this Article, and it is 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.
- (2) A mortgage lender license authorizes a person to act as a mortgage lender as defined in G.S. 53-244.030, a mortgage broker as defined in G.S. 53-244.030, and a registrant as defined in G.S. 53-244.030. Upon notice to the Commissioner, a licensed mortgage lender may also act as a mortgage servicer as defined in G.S. 53-244.030.
- (3) A mortgage servicer license authorizes a person to act only as a mortgage servicer as defined in G.S. 53-244.030.
- (4) An exclusive mortgage broker license authorizes an individual to act as an exclusive mortgage broker as defined in G.S. 53-244.030.
- (5) A mortgage loan originator license authorizes the individual to act as a mortgage loan originator as defined in G.S. 53-244.030.

(c) Each person licensed or registered under this Article shall register with and maintain a valid unique identifier issued by the NMLS.

(c1) A registrant operating in this State shall register with the Commissioner. Upon issuance of the registration, a registrant may sponsor and employ licensed mortgage loan originators to control and supervise the registrant's loan processors or underwriters in accordance with this Article, 12 U.S.C. § 5102(5), and 12 U.S.C. § 5103(b). Nothing in this subsection authorizes a registrant to engage in the mortgage business.

(d) The following are exempt from all provisions of this Article except G.S. 53-244.111 and, where applicable, may also service residential mortgage loans.

- (1) Registered mortgage loan originators as defined in G.S. 53-244.030.
- (2) Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of the individual's immediate family member 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 or herself out as engaged in the mortgage business and is not compensated by a person licensed under this Article when negotiating the terms of a residential mortgage loan.
- (5) Any person described in G.S. 53-244.030(29)a., b., or c., upon filing of a notice of exemption with the Commissioner as specified in G.S. 53-244.050(g) or Administrator as specified in G.S. 53-244.050(h).
- (6) Any officer or employee of a person described in subdivision (5) of this subsection when acting within the scope of his or her employment.
- (7) Repealed by Session Laws 2025-43, s. 1, effective October 1, 2025.
- (8) Repealed by Session Laws 2025-43, s. 1, effective October 1, 2025.
- (9) A person, as defined in 12 C.F.R. § 1026.2(a)(22), that as seller, receives in one calendar year no more than three residential mortgage loans as security for purchase money obligations, as specified in 12 C.F.R. § 1026.36(a)(4).
- (10) An estate or trust that, as seller, receives in one calendar year no more than one residential mortgage loan as security for a purchase money obligation, as specified in 12 C.F.R. § 1026.36(a)(5).
- (11) Any agency of the federal government or any state, local, or municipal government, or their subsidiaries, making or servicing residential mortgage loans under specific authority of the laws of any state, territory, or the United States.
- (12) Any bona fide nonprofit corporation qualifying under section 501(c)(3) of the Internal Revenue Code that makes or services residential mortgage loans to promote home ownership or home improvements for disadvantaged homeowners upon filing of a notice of exemption with the Commissioner as specified in G.S. 53-244.050(g), so long as the corporation is not primarily in the business of soliciting, brokering, making, or servicing residential mortgage loans. Pursuant to 12 C.F.R. § 1008.103(e)(7)(i), mortgage loan originators employed by a bona fide nonprofit corporation are not required to be licensed under this Article.
- (13) A trust institution when acting in a fiduciary capacity, as defined in G.S. 53-301(a)(2), upon filing of a notice of exemption with the Commissioner as specified in G.S. 53-244.050(g).
- (14) A trustee of a trust created under the laws of any state or territory of the United States that makes a residential mortgage loan to a qualified beneficiary of the trust or an immediate family member of the grantor of the trust, upon filing of a notice of exemption with the Commissioner as specified in G.S. 53-244.050(g).

(e) Each mortgage broker, mortgage lender, mortgage servicer, or registrant licensed or registered under this Article, shall do all of the following:

- (1) Have a qualifying individual who operates the business under that individual's full charge, control, and supervision.
- (2) File through the NMLS a form acceptable to the Commissioner designating a qualifying individual and the qualifying individual's acceptance of the responsibility.
- (3) Notify the Commissioner within 15 days of any change in its designated qualifying individual. Any individual licensee or registrant who operates as a sole proprietorship shall qualify as and be the qualifying individual for the purposes of this subsection.

(f) Mortgage lenders and mortgage brokers shall not operate branch offices, except as permitted by this Article. Branch offices shall be located in the United States. Each branch office of a mortgage broker or mortgage lender registered under this Article shall have a branch manager who meets the experience requirements under G.S. 53-244.030(3). If a mortgage lender or mortgage broker has no branch offices, its qualifying individual shall be licensed as a mortgage loan originator to oversee the origination activities conducted at the principal office. Each mortgage broker or mortgage lender licensed under this Article shall file through the NMLS a form acceptable to the Commissioner indicating the licensee's designation of a branch manager for each branch office. 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; 2025-43, s. 1.)