

SUBCHAPTER 03K - REVERSE MORTGAGES

SECTION .0100 - ADMINISTRATIVE

04 NCAC 03K .0101 DEFINITIONS; FILINGS

- (a) In addition to the definitions in G.S. 53-257, for the purpose of this Subchapter, the following definitions apply:
- (1) "Accounting period" means either a period of 12 months (or less in the first year of operation) ending December 31 or a fiscal year of not more than 12 months ending on the last day of any month except December.
 - (2) "Application fee" means any fee accepted by an authorized lender or lenders in connection with an application for a reverse mortgage loan including any charge for soliciting, processing, placing, or negotiating a reverse mortgage loan.
 - (3) "Branch office" has the same meaning as defined in G.S. 53-244.030.
 - (4) "Engaging in the mortgage business" has the same meaning at G.S. 53-244.030.
 - (5) "Mortgage lender" has the same meaning as G.S. 53-244.030.
 - (6) "NC SAFE Act authorized lender" means a mortgage lender licensed in this State that has obtained a Notice of Authorization.
 - (7) "Notice of Authorization" means the document granted by the Commissioner that authorizes a mortgage lender to engage in the business of making reverse mortgage loans.
 - (8) "Person" has the same meaning as G.S. 53-244.030.
- (b) Any application for authorization to make reverse mortgage loans, any report, annual statement, amendment to application, notice, or other document that is required by law or rule shall be obtained and filed with the Commissioner of Banks. Any application shall be obtained and filed with the Commissioner of Banks at <http://www.nccob.gov>.

History Note: Authority G.S. 53-257; 53-259; 53-271(a);
Eff. January 1, 1995;
Amended Eff. September 1, 2006;
Readopted Eff. August 1, 2018.

SECTION .0200 - AUTHORIZATION OF REVERSE MORTGAGE LENDERS

04 NCAC 03K .0201 APPLICATION FOR AUTHORIZATION AS A REVERSE MORTGAGE LENDER

- (a) The application shall be in writing, attested by the applicant, and filed pursuant to Rule .0101(b) of this Subchapter, and shall include the following:
- (1) a business plan that includes a description of the applicant's reverse mortgage business operations;
 - (2) the addresses where the applicant intends to engage in business as a reverse mortgage lender, including branch offices and the name of each branch manager;
 - (3) a description of the business experience and current business activities of the applicant, its partners, directors, principal officers and controlling persons; and
 - (4) three business references, including one bank reference.
- (b) In addition to the documents and information described in Paragraph (a) of this Rule, the Commissioner may require additional information as necessary to make the findings required by G.S. 53-258.
- (c) Incomplete application files may be closed and deemed withdrawn when the applicant has not submitted information requested by the Commissioner within 30 days of the request.

History Note: Authority G.S. 53-258; 53-259;
Eff. January 1, 1995;
Readopted Eff. August 1, 2018.

04 NCAC 03K .0202 NOTIFICATION OF INTENT TO ENGAGE IN REVERSE MORTGAGE LENDING

History Note: Authority G.S. 53-258(a)(c); 53-259; 53-271(a);
Eff. January 1, 1995;

Repealed Eff. August 1, 2018.

04 NCAC 03K .0203 CURRENT AUTHORIZED LENDER INFORMATION

(a) A NC SAFE Act authorized lender shall notify the Commissioner within 30 days of the effective date of any material changes to the information on file with the Commissioner. Notification shall be made on the lender's letterhead.

(b) For the purposes of this Rule, the term "material" means any information that would influence the granting of authorization to engage in reverse mortgage lending. The term "material" shall include information concerning a change in the address of the authorized lender's reverse mortgage branch office locations or the cessation of reverse mortgage lending activities in this State.

*History Note: Authority G.S. 53-258; 53-259; 53-271;
Eff. January 1, 1995;
Readopted Eff. August 1, 2018.*

04 NCAC 03K .0204 ANNUAL RENEWAL FEE

(a) On or before December 31 of each year, each NC SAFE Act authorized lender shall pay the annual fee set forth in G.S. 53-258(d).

(b) Failure of an NC SAFE Act authorized lender to pay the annual fee as of the date specified in Paragraph (a) of this Rule shall be grounds for revocation of its authorization to make reverse mortgage loans.

*History Note: Authority G.S. 53-258(d); 53-259; 53-271;
Eff. January 1, 1995;
Readopted Eff. August 1, 2018.*

04 NCAC 03K .0205 CERTIFICATE OF AUTHORIZATION

*History Note: Authority G.S. 53-122(3); 53-258(b)(d); 53-259; 53-271(a);
Eff. January 1, 1995;
Repealed Eff. August 1, 2018.*

04 NCAC 03K .0206 NONTRANSFERABILITY OF CERTIFICATE OF AUTHORIZATION

A Certificate of Authorization shall be neither transferrable nor assignable.

*History Note: Authority G.S. 53-258(d); 53-259; 53-271(a);
Eff. January 1, 1995;
Readopted Eff. August 1, 2018.*

SECTION .0300 - REQUIREMENTS FOR AUTHORIZATION

04 NCAC 03K .0301 MINIMUM NET WORTH REQUIREMENT FOR AUTHORIZED LENDER OR LENDERS

*History Note: Authority G.S. 53-258(b); 53-259; 53-271(a);
Eff. January 1, 1995;
Repealed Eff. August 1, 2018.*

04 NCAC 03K .0302 SURETY BONDS

All NC SAFE Act authorized lenders shall post a surety bond in the amount of one hundred thousand dollars (\$100,000) with the Commissioner that shall run to the benefit of the State. The bond shall be executed by an insurance company authorized to do business in North Carolina and not affiliated with the lender. The bond shall be conditioned upon the authorized lender's compliance with the provisions of Articles 19B and 21 of Chapter 53 of the General Statutes and all rules adopted thereunder.

*History Note: Authority G.S. 53-244.103; 53-244.118; 53-258(b); 53-259; 53-271(a);
Eff. January 1, 1995;*

Readopted Eff. August 1, 2018.

SECTION .0400 - OPERATIONS, NOTIFICATIONS, AND REPORTING

04 NCAC 03K .0401 CERTIFIED FINANCIAL STATEMENTS

*History Note: Authority G.S. 53-259; 53-271(a);
Eff. January 1, 1995;
Repealed Eff. August 1, 2018.*

04 NCAC 03K .0402 RECORD AND BOOKKEEPING REQUIREMENTS

- (a) All NC SAFE Act authorized lenders shall maintain their books and records relating to the making of reverse mortgage loans for a period of three years after payment of the debt and make them available for inspection by the Commissioner.
- (b) An NC SAFE Act authorized lender shall notify the Commissioner of any change in the location of its books and records.

*History Note: Authority G.S. 53-244.105; 53-259; 53-271(a);
Eff. January 1, 1995;
Readopted Eff. August 1, 2018.*

04 NCAC 03K .0403 EXAMINATIONS

The Commissioner may make such examination of the books, records and affairs of NC SAFE Act authorized lenders pursuant to G.S. 53-244.115.

*History Note: Authority G.S. 53-244.115; 53-259; 53-270; 53-271(a);
Eff. January 1, 1995;
Readopted Eff. August 1, 2018.*

04 NCAC 03K .0404 WITHDRAWAL/TERMINATION OF AUTHORIZATION AS REVERSE MORTGAGE LENDER

*History Note: Authority G.S. 53-259; 53-271;
Eff. January 1, 1995;
Repealed Eff. September 1, 2018.*

04 NCAC 03K .0405 IMPAIRMENT OF SURETY BOND

- (a) A NC SAFE authorized lender shall notify the Commissioner in writing within three business days of any cancellation or suspension of the surety bond required by Rule .0302 of this Subchapter.
- (b) If an applicant fails to meet the minimum surety bond requirements, the Commissioner may revoke or suspend authorization of NC SAFE Act authorized lender to engage in reverse mortgages.

*History Note: Authority G.S. 53-244.114; 53-258(b); 53-259; 53-271;
Eff. January 1, 1995;
Readopted Eff. August 1, 2018.*

SECTION .0500 - DISCLOSURE REQUIREMENTS

04 NCAC 03K .0501 REVERSE MORTGAGE LENDER APPLICATION DISCLOSURE

04 NCAC 03K .0502 PERMITTED FEES

*History Note: Authority G.S. 53-259; 53-264; 53-265(a); 53-270; 53-271(a);
Eff. January 1, 1995;
Repealed Eff. August 1, 2018.*

SECTION - .0600 COUNSELING

04 NCAC 03K .0601 COUNSELING

History Note: Authority G.S. 53-259; 53-260; 53-264; 53-271(a);
Eff. January 1, 1995;
Repealed Eff. August 1, 2018.

SECTION .0700 - PROHIBITED ACTS AND PRACTICES; ENFORCEMENT ACTIONS

04 NCAC 03K .0701 PROHIBITED ACTS

History Note: Authority G.S. 53-259; 53-270; 53-271(a);
Eff. January 1, 1995;
Repealed Eff. August 1, 2018.

04 NCAC 03K .0702 ENFORCEMENT ACTIONS

The grounds upon which the Commissioner may revoke the authorization of a lender to engage in reverse mortgage loans includes the following:

- (1) The making of any false statement in an application for authorization;
- (2) The making of any false statement on any form or document requested by the Commissioner;
- (3) One or more violations of G.S. 53, Article 21 or rules of this Subchapter;
- (4) The conviction of any crime that would have a bearing upon the fitness or ability of the authorized lender to conduct its business; or
- (5) The commission of any action that involves dishonesty, fraud, or misrepresentation.

History Note: Authority G.S. 53-259; 53-270; 53-271;
Eff. January 1, 1995;
Readopted Eff. August 1, 2018.

04 NCAC 03K .0703 HEARINGS

History Note: Authority G.S. 53-259; 53-270; 53-271; 53-272;
Eff. January 1, 1995;
Repealed Eff. August 1, 2018.