

SUBCHAPTER 03M – MORTGAGE LENDING

SECTION .0100 – GENERAL

04 NCAC 03M .0101 DEFINITIONS

In addition to the definitions in G.S. 53, Article 19B for the purposes of this Subchapter the following definitions apply:

- (1) "Act" means Article 19B of Chapter 53 of the North Carolina General Statutes, the "North Carolina Secure and Fair Enforcement (S.A.F.E.) Mortgage Licensing Act," or "NC SAFE Act."
- (2) "Advertisement" means material used or intended to be used to induce the public to apply for a mortgage loan. The term includes any printed or published material, or descriptive literature concerning a mortgage loan to be solicited, processed, negotiated, or funded by a licensee or exempt entity whether disseminated by direct mail, newspaper, magazine, radio or television broadcast, electronic mail or other electronic means, or billboard or similar display. The term does not include any disclosures, program descriptions, or other materials prepared or authorized by any state or federal government agency, nor does the term include any material or communication that has been excluded for purposes of any regulation of the Board of Governors of the Federal Reserve System regulating consumer credit disclosures.
- (3) "Call Report" means a report of condition on a company and its operations that includes financial and loan activity information.
- (4) "License" means a mortgage lender, mortgage servicer, mortgage broker, exclusive mortgage broker, or mortgage loan originator license issued pursuant to the Act and this Subchapter.
- (5) "Material borrower information" means facts or information that a reasonable person knows, or should know, would reasonably be expected to influence a borrower's decision with regard to one or more loans, including:
 - (a) the total compensation the mortgage broker expects to receive from all sources in connection with each loan option presented to the borrower;
 - (b) the terms of each loan option presented to the borrower;
 - (c) the anticipated monthly payment (including property tax and insurance payments) for each loan option presented to the borrower;
 - (d) if the loan contains a variable rate feature or other terms that may result in a change to the borrower's monthly payments over the life of the loan, the circumstances upon which the terms or payments will change and the impact of the changes upon the borrower's required monthly payments; and
 - (e) any affiliate relationships that may exist between the licensee and any party or parties to the sale or financing of the subject property, or any provider of settlement services.
- (6) "Material change" means a change to any material facts.
- (7) "Material facts" means information provided to the Commissioner by a licensee or applicant, regarding the person's identity, contact information, or business operations that a reasonable person knows, or should know, would influence a decision to grant, suspend, condition, limit, renew, or revoke a license or to take other disciplinary action against a licensee or exempt person, including:
 - (a) notice of a pending administrative action involving the licensee or applicant for licensure by any state or federal authority to which the licensee is subject;
 - (b) the issuance of an administrative order against the licensee or applicant for licensure by any state or federal authority to which the licensee is subject;
 - (c) notice of a pending criminal charge against the licensee or applicant for actions related to financial services or moral turpitude;
 - (d) the entry of a conviction or one of the following on a criminal charge against the licensee or applicant for licensure for a felony or other criminal charge for actions related to financial services or moral turpitude:
 - (i) a plea of guilty;
 - (ii) a plea of no contest or nolo contendere;
 - (iii) a prayer for judgment continued;
 - (iv) a deferred prosecution agreement;

- (v) an adjudication or verdict of guilty by a domestic, foreign, military, or other court of competent jurisdiction;
 - (vi) the equivalent of any of the foregoing in a domestic, foreign, military, or other court of competent jurisdiction; or
 - (vii) any other classification that is a conviction pursuant to the applicable law in the jurisdiction where the criminal charge was brought.
- (e) a change in status to the licensee's bond, including the reduction or cancellation of such bond;
 - (f) the licensee's primary phone number, mailing address, and principal office address;
 - (g) any assumed name, trade name, or d/b/a (doing business as) under which the licensee may be operating;
 - (h) the address at which files and documents retained pursuant to the Act or the rules in this Subchapter are stored;
 - (i) the identity of the licensee's bonding company or carrier, and the bond number;
 - (j) for corporate licensees, the identity of any affiliated mortgage lender, mortgage broker, mortgage servicer, or provider of settlement services; and
 - (k) for a corporate license, the identity of the licensee's owners, officers, directors, qualifying individual, branch manager(s), or control persons.
- (8) "Nationwide Mortgage Licensing System and Registry" or "NMLS&R" has the same meaning as defined in the NC SAFE Act.
 - (9) "Registration" means the approval granted to a mortgage origination support registrant to engage exclusively in the processing or underwriting of residential mortgage loans but not the mortgage business.
 - (10) "Settlement Services" has the same meaning as defined in federal Real Estate Procedures Act (RESPA) 12 U.S.C. Sec. 2601 et. seq. Regulation X, 24 C.F.R. Part 3500 et. seq, which is incorporated by reference and includes subsequent amendments. A copy of the regulation may be obtained from the website free of charge U. S. Government Publications Office website at <https://www.gpo.gov/fdsys/granule/CFR-2000-title24-vol5/CFR-2000-title24-vol5-part3500/content-detail.html>.

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