

## **CHAPTER 15**

### **State Board of Financial Institutions**

(Statutory Authority: 1976 Code Sections 34-1-60, 34-1-110, 34-26-210, 34-50-530(A))

#### **ARTICLE 1**

##### **Banking, Commercial Paper and Finance**

###### **15-1. Limitations and Restrictions on Purchase and Sale of Securities.**

(1) State chartered banks, state savings banks, and state savings and loan associations may, without the specific approval of the Board, engage in investment activities in the same manner as national banks and federal savings associations are permitted to do.

(2) State chartered banks, state savings banks, and state savings and loan associations may, without the specific approval of the Board, invest in operating subsidiaries engaged in activities the bank could perform directly, as national banks and federal savings associations are permitted to do. The Commissioner of Banking must be notified in writing of investment in any new subsidiary and the specific activities performed. Any offices used by the subsidiary for the sale of products or services must be distinct from those of the financial institution and must be so noted by appropriate signs. Further, if there is a change to the specific activities to be performed by a subsidiary in which the institution has invested, the institution shall also notify the Commissioner of Banking.

HISTORY: Amended by State Register Volume 16, Issue No. 11, eff November 27, 1992; SCSR 48-11 Doc. No. 5298, eff November 22, 2024.

###### **15-2. Repealed.**

HISTORY: Former Regulation, titled Limitations and Restrictions on Borrowing by Savings and Loan Institutions, repealed by SCSR 47-11 Doc. No. 5218, eff November 24, 2023.

###### **15-3. Approval of Security Purchases.**

Any bank, banking institution, or cash depository operating under the supervision of the State Board of Bank Control contemplating the purchase of securities shall either (a) first obtain the approval and authorization of its Board of Directors for such purchases or (b) the purchase of such securities shall be approved and confirmed by the Board of Directors of the institution within 90 days after purchase; such authorization or confirmation to be noted in the Board minutes.

**15-4. State Bank, State Savings Bank, and Savings and Loan Association Dividends.**

State chartered banks, state savings banks, and state savings and loan associations, are authorized to declare cash dividends up to 100% of year-to-date net income in any calendar year without obtaining the prior approval of the Board. Dividends declared in January may be based on the net income of the prior calendar year subject to this limitation. All other cash dividends require the specific approval of the Board.

Provisions of a formal or informal enforcement action may limit an institution's ability to pay a dividend that would otherwise be permissible as described in this regulation.

HISTORY: Amended by State Register Volume 16, Issue No. 5, eff May 23, 2025.

**15-5. Repealed.**

HISTORY: Former Regulation, titled Investment Surpluses, repealed by SCSR 48-5 Doc. No. 5217, eff May 24, 2024.

**15-6. Repealed.**

HISTORY: Former Regulation, titled Insurance and Fidelity Bond Protection, repealed by SCSR 48-5 Doc. No. 5216, eff May 24, 2024.

**15-7. Loans Secured by Real Estate Mortgages.**

Except as hereinafter provided no State-chartered bank, savings bank, or savings and loan association shall make any loan or advance of credit of any nature secured by a mortgage of real estate (either direct or assigned as collateral) or by any other instrument giving or purporting to give a lien on real estate until it shall have first secured the following:

(a) A certificate of title or other satisfactory certificate of insurance as to the title of the property and the status of all assessed taxes. Such certificate shall be made and dated after the mortgage is recorded.

(b) An appraisal of the mortgaged premises in writing. Unless otherwise instructed by the State Board of Financial Institutions or the Commissioner of Banking, when making loans secured by real estate mortgages, State chartered banks, savings banks, and savings and loan associations, shall follow the Interagency Appraisal and Evaluation Guidelines as Federally chartered institutions are permitted to do.

HISTORY: Amended by SCSR 47-11 Doc. No. 5206, eff November 24, 2023.

**15-8. Repealed.**

HISTORY: Former Regulation, titled Published Reports of Condition, Savings and Loan, repealed by SCSR 47-11 Doc. No. 5211, eff November 24, 2023.

### **15-9. Repealed.**

HISTORY: Former Regulation, titled Limitations and Restrictions on Loans, Savings and Loan, repealed by SCSR 48-5 Doc. No. 5219, eff May 24, 2024.

### **15-10. Repealed.**

HISTORY: Former Regulation, titled Participation in RFC Loans, repealed by SCSR 48-5 Doc. No. 5209, eff May 24, 2024.

### **15-11. Repealed.**

HISTORY: Former Regulation, titled Servicemen's Readjustment Act, repealed by SCSR 48-5 Doc. No. 5213, eff May 24, 2024.

### **15-12. Reserve Accounts, Savings and Loan.**

Every State chartered building and loan or savings and loan association in the State shall set up a reserve account which shall be used solely for the purpose of absorbing losses. A copy of the resolution of the Board of Directors establishing this account shall be filed with the Chief Examiner of the Board of Bank Control.

At the close of each fiscal year on or after July 1, 1959, this account shall be credited with an amount equal to at least 10% of the net income of the association for the year, or by the amount which the total of all reserves and undivided profits shall be less than 15% of all outstanding shares on that closing date, if that amount be less than 10% of net income. Provided, however, that any account already established pursuant to the regulations of the Federal Savings and Loan Insurance Corporation and any additions (of at least 5% of net income to that reserve) to that reserve as required by the said corporation shall satisfy the requirements of this regulation. (Be it further provided that where additions required by the FSLIC to said account are less than 5% of net income every association shall credit the lesser of 5% of net income as herein defined or the balance of net income after deduction of dividends to either said account or a special reserve account to absorb losses as designated by the Board of Directors.)

Net income means gross income from all sources after deduction of operation expenses, including interest on notes payable and losses of every kind charged to income, rather than to reserves and undivided profits, but before deduction of dividends to shareholders.

### **15-13. State Bank Forest Tract Loans.**

Every State chartered bank may make real estate loans secured by first liens upon forest tracts which are properly managed in all respects. Such loans shall be in the form of an obligation or obligations secured by mortgage or other such instrument; and any State chartered bank may purchase any obligation so secured when the entire amount of such obligation is sold to the bank. The amount of any such loan shall not exceed 40 per centum of the appraised value of the economically marketable timber offered as security and the

loan shall be made upon such terms and conditions as to assure that at no time shall the loan balance exceed 40 per centum of the original appraised value of the economically marketable timber then remaining. No such loan shall be made for a longer term than two years; except that any such loan may be made for a term not longer than ten years if the loan is secured by an amortized mortgage or other such instrument under the terms of which the installment payments are sufficient to amortize the principal of the loan within a period of not more than ten years and at a rate of at least 10 per centum per annum.

No State chartered bank shall make forest-tract loans in an aggregate sum in excess of 50 per centum of its capital stock paid in and unimpaired plus 50 per centum of its unimpaired surplus fund.

Provided further, that the total amount of any such loan to any one person shall not exceed 10% of the capital and surplus of any such bank, except that by approval, in writing, by two-thirds of the Directors of the bank, the amount may be extended to 15% of the bank's capital and surplus.

In addition to the above, the general conditions of loans on forest tracts are as follows:

1. The obligation evidencing the loan must be secured by a mortgage or other such instrument which is a first lien upon a forest tract which is properly managed in all respects.

2. The bank may purchase such obligation only if the entire amount is sold to the bank.

3. The loan must not exceed 40% of the appraised value of the economically marketable timber offered as security, which means 40% of the value at the time the loan is made and not the value which it is estimated the timber will have at the time it is to be cut or at the maturity date of the loan. The loan balance may at no time exceed 40% of the original appraised value of the economically marketable timber then remaining, which means that as the timber is cut at least a portion of the proceeds must be used toward payment of the loan if the maximum permissible loan were made at the outset.

4. Forest tract loans may run for only two years, except that they may run for ten years if provision is made for amortization of at least 10% per annum.

5. The aggregate amount of forest-tract loans which a bank may have outstanding may not exceed 50% of the bank's capital and surplus.

To further clarify the meaning of "properly managed," there is issued the following ruling:

Proper forest management in all respects is the application of suitable and economically sound forestry principles relating to protection, utilization and reproduction of forest tracts, and the following are indicative of such management:

- A. Organized protection against forest fires is provided by the State Forest Service or other protective public or private fire protection agencies. Such protection should include provision for prompt detection and suppression of forest fires, and where considered necessary by local foresters presuppression measures such as construction of fire-breaks and fire roads.

- B. In cases where hazards from attack by insects or disease are unusually high, protection is provided by an effective public or private organization, or existing roads and logging conditions are such as to make salvage of killed timber feasible.

C. Any cutting conducted during the period of the loan is of such nature as to insure reproduction and continued growth of timber tracts. Where a borrower following the advice of a qualified person in timber marking for example, this would ordinarily indicate acceptable cutting practice.

#### **15-14. Retention of Bank, Savings Bank, Savings and Loan Association, and Trust Company Records.**

(1) In addition to the applicable record retention requirements set forth for corporations in S.C. Code Section 33-16-101, South Carolina state chartered banks, savings banks, savings and loan associations, and trust companies are required to maintain records in accordance with applicable federal standards.

(2) Additionally, these institutions must maintain the following records as set forth below:

(a) Five Years

(i) General Ledger/Subledger Accounts – Records of all general ledger and subledger accounts that comprise the daily income statement and balance sheet.

(ii) Audit Reports – Internal and external audit reports, including any applicable supporting workpapers.

(b) Three Years After Payoff or Disposition, unless otherwise required by applicable federal statutes or regulations,

(i) Loan and Deposit Accounts – Records of all loan and deposit accounts. Full credit documentation that includes evidence of collateral security and underwriting support of the credit must be maintained and applied to modifications, renewals, extensions and collections.

(3) Nothing in this regulation shall limit an institution from retaining records beyond the required retention period.

HISTORY: Amended by State Register Volume 16, Issue No. 5, eff May 23, 2025.

#### **15-15. Bank Purchase and Sale of Federal Funds.**

(Statutory Authority: 1976 Code Sections 34-1-60)

State Chartered Banks are hereby permitted to deal in the purchase and sale of Federal Funds in the same manner as may be prescribed for National Banks and the sale of such funds would not create a loan on the part of the seller nor would it create a borrowing on the part of the purchaser, but would be considered a purchase and sale of such funds.

#### **15-16. FHA Home Improvement Loans, Savings and Loan.**

(Statutory Authority: 1976 Code Sections 34-1-60)

State Chartered Savings and Loan Associations and/or Building and Loan Associations are hereby authorized to make any loan for property alteration, repair or improvement that is accepted for insurance by the Federal Housing Administrator under the provisions of the National Housing Act, as now or hereafter

amended, for such amount and repayable upon such terms and within such periods as are acceptable to the insuring agency; provided, the total amount of all loans for property alteration, repair, or improvement shall not, at any time, exceed fifteen percent (15%) of the association's assets.

#### **15-17. Federal 100 Percent Guaranteed Loans.**

(Statutory Authority: 1976 Code Sections 34-1-60)

Any bank may make and grant loans to any person, company, firm, or corporation in excess of 15%, but not to exceed 50%, of the combined common capital stock, capital notes, and surplus accounts of the bank if the amount of any such loan in excess of the 15% limitation imposed by Sections 34-13-50 is 100% guaranteed by an agency of the United States Government or secured by Certificates of Deposits, and any such loan shall also be approved by a two-thirds vote of the whole Board of Directors of the bank, as required by Sections 34-13-50 of the Code. No such loan shall be made to a Director or Officer of any such bank or to any firm, company or corporation in which the bank Director or Officer of such bank is interested.

#### **15-18. Brokered Deposit Funds.**

(Statutory Authority: 1976 Code Sections 34-1-60)

State chartered banks are hereby prohibited from accepting brokered deposit funds where tie-in loans are required to be made as a condition for the deposit of such funds.

#### **15-19. Repealed.**

HISTORY: Former Regulation, titled Mobile Home Loans, Savings and Loan, repealed by SCSR 48-5 Doc. No. 5207, eff May 24, 2024.

#### **15-21. State Bank Investments, Fixed Assets.**

(Statutory Authority: 1976 Code Sections 34-1-60)

Hereafter and without the approval of the Board of Financial Institutions, banks may make investments in bank premises, furniture and fixtures, equipment, loans on properties that are leased to the bank, and stocks of subsidiary corporations organized to hold title to banking house properties that have been approved by the Board of Financial Institutions under Regulation 15-1, as amended, PROVIDED that the aggregate of such investments does not exceed one hundred percent (100%) of the combined outstanding capital stock, surplus, and capital notes and/or debentures of the bank; and PROVIDED further that the investment in fixed assets does not include property purchased for future expansion that is not adjacent to the present banking house or branch property, in which case prior written approval of the Board of Financial Institutions shall be obtained.

HISTORY: Amended by State Register Volume 24, Issue No. 2, eff February 25, 2000.

## **15-22. Mergers, Savings and Loan Associations.**

(Statutory Authority: 1976 Code Sections 34-25-260)

State chartered savings and loan associations and/or building and loan associations are hereby authorized to exercise any powers with respect to mergers which a federal savings and loan association exercises under the laws of the United States or Regulations adopted pursuant thereto.

## **15-23. Repealed.**

HISTORY: Former Regulation, titled Home Improvement Loans, Savings and Loan, repealed by SCSR 48-5 Doc. No. 5215, eff May 24, 2024.

## **15-24. Repealed.**

HISTORY: Former Regulation, titled Borrower's Preference Re Attorney and Insurance, repealed by SCSR 48-5 Doc. No. 5210, eff May 24, 2024.

## **15-25. Property Held for Future Expansion**

State chartered banks, state savings banks, and state savings and loan associations may hold property acquired for future expansion under the same conditions as national banks and federal savings associations are permitted to hold such property and must account for and dispose of such property accordingly.

HISTORY: Amended by State Register Volume 24, Issue No. 2, eff February 25, 2000; SCSR 48-11 Doc. No. 5284, eff November 22, 2024.

## **15-26. Disposition of Other Real Estate Owned by Banks, State Savings Banks, and State Savings and Loan Associations.**

(1) For purposes of this regulation, "Other Real Estate Owned" shall be defined as any interest in real estate which would be classified as such pursuant to the definitions and related rules established in the Instructions for Preparation of Consolidated Reports of Condition and Income issued by the Federal Financial Institutions Examination Council (Call Report Instructions).

(2) The preferred method of disposition of Other Real Estate Owned is immediate sale at a price sufficient to cover the institution's investment and costs of acquisition.

(3) If the property interest is not sold immediately, the book value of each parcel of Other Real Estate Owned shall be determined using the Call Report Instructions.

(4) Other Real Estate Owned shall be disposed of within a period of five years, except upon written approval of the Board of Financial Institutions to extend the period up to an additional five years.

(a) When Other Real Estate Owned is acquired through merger with or acquisition of another institution, the acquiring institution's holding period of the acquired Other Real Estate Owned commences on the date of the merger or acquisition.

HISTORY: Amended by State Register Volume 19, Issue No. 5, eff May 26, 1995; SCSR 48-11 Doc. No. 5287, eff November 22, 2024.

#### **15-27. Reports of Condition.**

All South Carolina state-chartered banks, savings banks, savings and loan associations, and trust companies shall file with the Office of the Commissioner of Banking, Board of Financial Institutions, a Report of Condition, as described in S.C. Code Sections 34-3-380 and 420, on a quarterly basis, within 30 Calendar days after the end of the preceding calendar quarter.

HISTORY: Amended by SCSR 47-11 Doc. No. 5214, eff November 24, 2023.

#### **15-28. Repealed**

HISTORY: Former Regulation, titled Income and Expense Statements Re Dividends, repealed eff May 23, 2025.

#### **15-29. Repealed.**

HISTORY: Former Regulation, titled Loans to Officers and Directors, repealed by SCSR 48-11 Doc. No. 5280, eff November 22, 2024.

#### **15-30. Individual Retirement Authority.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-Chartered Savings and Loan Associations and/or Building and Loan Associations are hereby authorized to act as trustee or custodian of any trust authorized by the Federal Self-employed Individuals Tax Retirement Act of 1962, as amended (The Keogh-Smathers Act) and of 1974 (ERISA) Section 401(d) (Keogh-Smathers Act) or Section 408(a) which authorizes Individual Retirement Accounts (IRA).

#### **15-31. Graduated-payment and Reverse-annuity Mortgages.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State chartered savings and loan associations are authorized to offer graduated-payment mortgages and reverse-annuity mortgages in accordance with the provisions of Subparagraph (a)(8) of Section 545.6-1 of the Federal Home Loan Bank Board Regulation 545 adopted by the Board on December 14, 1978, effective January 1, 1979.



The text of the Federal Home Loan Bank Board Regulation is as follows:

1. Section 545.6-1 is amended by adding a new subparagraph (a)(8), as follows:

Sections 545.6-1 Lending powers.

(a) Homes or combinations of homes and business property.

(8) Real-estate loans with pledged savings accounts as additional security.

Loans may be made under paragraphs (a)(4) and (5) of this section in excess of the maximum dollar, percentage-of-value, or percentage-of-purchase-price limitations thereof, with such excess secured by savings accounts, subject to the following restrictions:

(i) The loan shall not exceed the lesser of purchase price or value of the real estate;

(ii) The savings account shall consist only of funds belonging to the borrower, members of his family, or his employer;

(iii) The association shall fully disclose to the prospective borrower the difference (including interest, private-mortgage-insurance costs, and equity interest) between a loan secured by real estate and savings and a loan secured by real estate alone; and

(iv) The loan shall comply with section 545.6-2 as it relates to graduated payment mortgages.

2. The text of Sections 545.6-2 is deleted and a new text added, as follows:

Sections 545.6-2 Alternative mortgage instruments.

(a) General.

Associations making loans pursuant to Sections 545.6-1(a) of this Part may use the alternative mortgage instruments described in this section, which allow certain payment and other provisions different from those required elsewhere in this Subchapter. All prospective borrowers offered such instruments must also be offered a standard instrument, as described in this section. An association using an alternative mortgage instrument shall obtain and retain in the loan application file a certification signed by the prospective borrower indicating that s/he has received the disclosure materials specified in this section before electing to take the alternative mortgage instrument.

(b) Graduated-payment mortgage.

(1) Description. This instrument's scheduled payments begin at a level lower than that of a comparable standard mortgage instrument, and gradually rise to a predetermined point, after which they remain constant; the graduation period and rate of increase and the interest rate are fixed at loan origination.

(2) Graduation period, rate, and frequency.

Graduation periods are limited to ten years, with maximum rates of increase in mortgage payments as follows:

(i) 7.5 percent annually for a graduation period of five or fewer years;

- (ii) 6.5 percent annually for six years;
- (iii) 5.5 percent annually for seven years;
- (iv) 4.5 percent annually for eight years;
- (v) 3.5 percent annually for nine years; and
- (vi) 3 percent annually for ten years.

Payment amounts may not be changed more than once a year, and the first change may not occur less than one year after the date of the first regular loan payment.

(3) Borrower option to convert.

Borrowers under this plan shall be given a right to convert, at a time chosen by the borrower, to a standard mortgage instrument, provided that the borrower is then eligible for such instrument under the association's normal underwriting standards. No assessment of penalties or fees shall be made if the borrower chooses to convert at the interest rate and outstanding maturity of the graduated-payment mortgage.

(4) Interest capitalization resulting from any negative amortization of these instruments does not deny the loan first-lien status under Sections 541.9 of this Subchapter; such debt is considered to be contracted for at the time of loan origination.

(5) Loan-to-value limitations under Sections 545.6-1(a) of this Part shall be complied with throughout the loan terms.

(6) Disclosure.

Each prospective borrower shall receive materials explaining in reasonably simple terms the graduated payment mortgage offered and a comparable standard mortgage instrument (with a fixed interest rate, level payments, and full amortization). Such materials shall include:

- (i) a side-by-side comparison of differing interest rates and other terms;
- (ii) payment schedules for both types of instruments and the total payment in dollars over the full term of each loan;
- (iii) a description of the conversion option; and
- (iv) a statement prominently displayed, that borrowers have the option to elect a standard mortgage instrument.

(c) Variable-rate mortgage.

(1) Description. The interest rate of this instrument is tied to a reference index; thus, actual future payments are not known at the time of loan origination. Except as provided in subparagraph (c)(6), interest rates are subject to adjustment every year.

(2) Restrictions.

(1) Geographic limitation. A federal association may make, purchase, or participate in variable rate mortgage loans on real estate located in its home State if the Board has determined that such associations require authority to invest in such loans to maintain competitive balance with other financial institutions lending in such State. Associations authorized to make these investments in their home States may also invest in them in other States where the Board has made similar determinations.

(a) The facts which the Board will take into account in determining a need for competitive balance include: the number of financial institutions offering such loans, the asset size and mortgage market share of such institutions, the dollar amounts of such loans originated in the State, the rate of growth of such loans, or a finding of economic or other factors which may necessitate authorization of such loans. Qualification will be made on a case-by-case basis; in some States a single factor may be determinative, while in others a combination of factors may affect the Board's decision.

(ii) Percentage-of-loans limitation. Not more than 50% of an association's home-mortgage loans by dollar amount made or purchased in any calendar year shall be in variable rate mortgages.

(iii) "Sunset" provision. Authority to invest in variable rate mortgages under this section will cease as of December 31, 1982, unless renewed or rescinded at an earlier date by the Board.

(3) Index.

Associations shall use the latest cost-of-funds index published by the Federal Home Loan Bank in the district where the property securing the loan is located.

(4) Interest-rate adjustments.

(i) Frequency; grace period. Interest-rate adjustments (and loan payment changes resulting from them) may not be made more than once a year, and the first adjustment may not occur less than one year after the date of the first regular monthly payment.

(ii) Calculation and timing of adjustments. The association shall specify the following in the mortgage contract:

(a) the month when rate review will take place, basing the new calculation on the most recent index information then available;

(b) the date when notification of any adjustment will be made to the borrower; and

(c) the annual monthly payment date when any such adjustment shall take effect.

(iii) Minimum adjustments. The smallest adjustment (up or down) shall be one tenth percent (0.10 percent).

(iv) Maximum adjustments. The maximum amount of rate adjustment (up or down) shall be one-half of one percent (0.5 percent) a year, with a maximum net increase of 2.5 percent over the life of the loan. Downward adjustments must be made, but increases are at the lender's option. Changes in the index rate which are not taken (either at lender's option in the case of increases or because they are too small or too large, i.e., less than 0.10 or over 0.5 percent in a given year) may be accumulated by the lender in the case of increases, and must be accumulated in the case of decreases, and taken at a later time (but never more than 0.5 percent per year), or used to offset other changes.

(v) Actions relating to rate increases. Upon notification of an increase, the borrower shall have the following options:

(a) Not respond to the notice; payments will be adjusted upward to reflect higher interest rate;

(b) Request that loan maturity be extended up to a maximum of one-third of the original loan term;  
or

(c) Within 60 days of such notification, prepay the loan, either in full or in part, without penalty if the new rate is above the initial loan rate.

(vi) Actions relating to rate decreases. Rate decreases shall be applied first to reduction of extended loan maturity (but not below original maturity) and then to reduction of monthly payments; however, loan terms shall not be reduced to such an extent that monthly payments would be increased.

(vii) Notification requirements. The borrower shall receive written notification of any rate adjustment at least one month before the date the new rate will take effect. The notification shall include:

(a) current and new rates;

(b) old and new index rates;

(c) accumulated but unused rate changes;

(d) current monthly payment and remaining maturity;

(e) for increases, a description of borrower's options, including the new payment and maturity if the loan is extended to the maximum; and

(f) for decreases, a description of the way the decrease will be applied.

(5) Disclosure.

Each prospective borrower shall receive materials explaining in reasonably simple terms the type of variable rate mortgage offered and a comparable standard mortgage instrument (with a fixed interest rate, level payments, and full amortization). Such materials shall include:

(i) a side-by-side comparison of differing interest rates and other terms;

(ii) payment schedules for both types of instruments, including a "worst case" schedule for the variable rate mortgage showing every maximum increase at the time it could first occur, the highest possible payment during the loan term, and the total payment in dollars over the full term of each loan (with a notation stating that the total payment for the VRM would be greater in the event of loan extension);

(iii) information regarding the index used;

(iv) a description of borrower's options in the event of an interest-rate increase;

(v) a statement, prominently displayed, that borrowers have the option to elect a standard mortgage instrument; and

(vi) a statement that if the prospective borrower has questions regarding the disclosures, s/he may contact (title, telephone number, and address of officer) at the Federal Home Loan Bank of (\_\_\_\_\_).

(6) Multi-year variable rate mortgage.

Variable rate mortgages complying with all of the requirements of this paragraph (c) may be made with contractual adjustment periods exceeding one year, in multiples of twelve months. Index-rate changes are accumulated over the period, but the increase or decrease made at adjustment time may not exceed the specified maximum annual percent multiplied by the number of years in the adjustment period. Maximum increase is 2.5 percent over the life of the loan; there is no maximum decrease. The minimum period for prepayment without penalty shall be 120 days after notification for these instruments.

(d) Reverse-annuity mortgage.

(1) Description. This instrument provides periodic payments to homeowners based on accumulated equity; the payments are made directly by the lender or through purchase of an annuity from an insurance company. The loan becomes due either upon a specific date or when a specified event occurs, such as sale of the property or death of the borrower.

(2) Application. Proposed mortgage plans shall be submitted to the Board for review. If objection is not taken within 60 calendar days from receipt of the proposed plan, the association may proceed to offer mortgages pursuant to such plan.

(3) Requirements.

(i) Loan applicants shall not be bound for seven days after the loan commitment is made.

(ii) Associations shall obtain a statement signed by the borrower acknowledging disclosure of all contractual contingencies which could force a sale of the home.

(iii) If the mortgage has a fixed term, refinancing shall be made available at market rates current at the time payment is due.

(iv) The instrument shall provide for prepayment without penalty at any time during the loan term.

(v) If payments are to be made to the borrower through purchase of an annuity, the association shall use an insurance company authorized to engage in such business, and supervised, by the State in which it is incorporated.

(vi) Interest rates shall be fixed at loan origination; variable rate mortgages are prohibited.

(4) Disclosure. Each prospective borrower shall receive written materials explaining in reasonably simple terms the type of mortgage being offered and its specific terms, including:

(i) schedule and explanation of payments to the borrower and whether property taxes and insurance are to be deducted;

(ii) schedule of outstanding debt over time;

(iii) repayment date if a fixed-term loan, or event (such as sale of home or death of one or more mortgagors) which causes loan to become due;

(iv) method of repayment, and schedule if any;

(v) all contractual contingencies, including lack of home maintenance and other default provisions, which may result in forced sale of the home;

(vi) interest rate, annual percentage rate, and total interest payable on the loan;

(vii) effective interest rate and interest earned or expected to be earned on purchased annuities, based on standard mortality tables;

(viii) name and address of insurance company issuing a purchased annuity;

(ix) initial loan fees and charges;

(x) description of prepayment and refinancing features; and

(xi) inclusion of a statement that such mortgages have tax and estate-planning consequences and may affect levels of, or eligibility for, certain government benefits, grants, or pensions, and that applicants are advised to explore these matters with appropriate authorities.

3. Section 555.4 is deleted.

Editor's Note

This regulation became effective April 18, 1980.

### **15-32. Repealed.**

HISTORY: Former Regulation, titled Home Improvement Loans, repealed by SCSR 48-11 Doc. No. 5295, eff November 22, 2024.

### **15-33. Loans Secured by Second Mortgages.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered savings and loan associations are authorized to make loans secured by second mortgages on real estate under the same terms and conditions as permitted federally chartered savings and loan associations by Section 545.6-26 of the Home Loan Bank Board Regulations existing on September 5, 1979.

Section 545.6-26 of the Home Loan Bank Board Regulations reads as follows:

"Sections 545.6-26 Non-conforming secured loans.

"(a) Any Federal association with scheduled items (other than assets acquired in a merger instituted for supervisory reasons) not in excess of 2.5 percent of specified assets, except as provided in paragraph (e) of this section, and with net worth in conformance with the requirements of Sections 563.13(b) of this chapter (associations insured for less than 2 years must meet the net-worth requirements for those insured for 2 years), may invest an amount not in excess of 2 percent of its assets in loans, advances of credit and interests therein, secured by residential real property, which are not otherwise authorized under this part because of the following reasons: (1) the security interest is not a first lien; (2) the loan-to-value ratio, stated maturity, or loan amount is in excess of the maximum allowable limits under this part; (3) lack of any required borrower certification or required private mortgage insurance; (4) unavailability of the percentage-of-assets category within which the investment is required to be made pursuant to Sections 545.6-7; or (5) a combination of the foregoing factors. In addition, such association may make further investments in such loans equal to one percent (or fraction thereof) of assets for each percentage point (or fraction thereof) of net worth in excess of the greater of (i) 5 percent of withdrawable accounts or (ii) net worth as required under Sections 563.13(b), but such further investment shall not cause a total investment in excess of 5 percent of assets in such loans."

Editor's Note

This regulation became effective April 18, 1980.

#### **15-34. Variable Rate Mortgages.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-Chartered savings and loan associations are authorized to make variable rate mortgages under the same terms and conditions as permitted federally chartered savings and loan associations by Section 545.6-2 of the Home Loan Bank Board Regulation 545, adopted by the Board in December, 1978, effective July 1, 1979.

Editor's Note

This regulation became effective Feb. 20, 1981.

#### **15-35. Renegotiable Rate Mortgages.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered savings and loan associations are authorized to make renegotiable rate mortgages under the same terms and conditions as permitted federally chartered savings and loan associations by Section 545.6-4a of the Federal Home Loan Bank Board Regulation 545, as amended by the Federal Home Loan Bank Board on September 30, 1980, effective October 8, 1980.

Editor's Note

This regulation became effective June 5, 1981.

### **15-36. Issuance of Credit Cards.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered savings and loan associations are authorized to issue credit cards under the same terms and conditions as permitted federally chartered savings and loan associations by Section 545.4-3 of the Federal Home Loan Bank Board adopted by the Board on July 3, 1980, effective July 10, 1980, as amended by Federal Home Loan Bank Board Regulation 563.43 adopted November 26, 1980, and effective the same date.

Editor's Note

This regulation became effective July 24, 1981.

### **15-37. Negotiable Order of Withdrawal (NOW) Accounts.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered savings and loan associations are authorized to offer negotiable order of withdrawal (NOW) accounts under the same terms and conditions as permitted federally chartered savings and loan associations by Sections 526.1 and 563.1 of the Federal Home Loan Bank Board Regulation 526 adopted by the Board on September 30, 1980, effective December 30, 1980 and Regulation 563 adopted by the Board on October 23, 1980, effective December 31, 1980.

Editor's Note

This regulation became effective June 5, 1981.

### **15-38. Consumer Loans, Commercial Paper, and Corporate Debt Securities.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered savings and loan associations are authorized to invest in consumer loans, commercial paper and corporate debt securities under the same terms and conditions permitted federally chartered savings and loan associations by Sections 545.7-10 and 545.9-4 of the Federal Home Loan Bank Board Regulation 545 adopted November 10, 1980, effective November 17, 1980.

Editor's Note

This regulation became effective June 5, 1981.

### **15-39. Trust powers.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered savings and loan associations are authorized to exercise trust powers under the same terms and conditions as permitted federally chartered savings and loan associations by Sections 550.1



through 550.16 of the Federal Home Loan Bank Board Regulation 550 adopted by the Board on November 26, 1980, effective January 1, 1981.

Editor's Note

This regulation became effective July 24, 1981.

### **15-39A. Mutual Capital Certificates.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered savings and loan associations are authorized to issue Mutual Capital Certificates under the same terms and conditions as permitted federally chartered savings and loan associations by Section 563.7-4 of the Federal Home Loan Bank Board Regulation 563 adopted by the Board on November 21, 1980, effective December 29, 1980.

Editor's Note

This regulation, which became effective July 24, 1981, was numbered 15-40 by the State Board of Financial Institutions. Because the regulation contains subject matter generally treated in Article 1, and not Article 2 as the original number suggests, the regulation has been designated as 15-39A by the publisher's editorial staff.

### **15-39B. Adjustable-rate Mortgages.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered banks are authorized to make adjustable-rate mortgages in accordance with the provisions of 12 CFR Chapter I, Part 29, Department of the Treasury, office of the Comptroller of the Currency Regulation dated March 24, 1981, effective March 27, 1981.

Editor's Note

This regulation, which became effective July 24, 1981, was numbered 15-40-B by the State Board of Financial Institutions. Because the regulation contains subject matter generally treated in Article 1, and not Article 2 as the original number suggests, the regulation has been designated as 15-39B by the publisher's editorial staff.

### **15-39C. Adjustable Mortgage Loan Instruments.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered savings and loan associations are authorized to offer adjustable mortgage loan instruments in accordance with the provisions of 12 CFR, Part 545, Federal Home Loan Bank Board Regulations, effective April 30, 1981.

#### Editor's Note

This regulation, which became effective July 24, 1981, was numbered 15-40-C by the State Board of Financial Institutions. Because the regulation contains subject matter generally treated in Article 1, and not Article 2 as the original number suggests, the regulation has been designated as 15-39C by the publisher's editorial staff.

#### **15-39D. Non-interest Bearing Negotiable Order of Withdrawal (NINOW) Accounts by State-chartered Savings and Loan Associations.**

(Statutory Authority: 1976 Code Sections 34-1-60)

(a) State-chartered savings and loan associations may elect, by a majority vote of its directors, to designate a class of non-interest-bearing savings accounts from which account holders may make withdrawals by negotiable or transferable instruments. These negotiable order of withdrawal accounts will be referred to in this Regulation as NINOW accounts.

(b) An association may charge a fee for making any payment or transfer or for maintaining a NINOW account under this Regulation.

(c) An association shall not distribute earnings or pay interest on NINOW accounts.

#### Editor's Note

This regulation, which became effective March 12, 1982, was numbered 15-40-D by the State Board of Financial Institutions. Because the regulation contains subject matter generally treated in Article 1, and not Article 2 as the original number suggests, the regulation has been designated as 15-39D by the publisher's editorial staff.

#### **15-39E. First Mortgage Real Estate Loans by State-chartered Banks.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered banks may make loans secured by first liens on improved real estate as provided for in Section 34-13-20, Code of Laws of South Carolina, 1976, as amended, and when amortization is required as provided for in subsection (e) of Section 34-13-20, payments may be based on an amortization schedule of not more than 30 years, even though the term of the loan may be less than 30 years.

This regulation allows state-chartered banks to amortize first mortgage real estate loans in the same way as allowed national banks by 12 USC 371 Section 7.2125 (c) as amended, effective October 25, 1978.

#### Editor's Note

This regulation, which became effective November 13, 1981, was numbered 15-40-E by the State Board of Financial Institutions. Because the regulation contains subject matter generally treated in Article 1, and not Article 2 as the original number suggests, the regulation has been designated as 15-39E by the publisher's editorial staff.

### **15-39F. Graduated Payment Adjustable Mortgage Loan Instruments by State-chartered Savings and Loan Associations.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered savings and loan associations are authorized to make graduated payment adjustable mortgage loan instruments under the same terms and conditions as permitted federally chartered savings and loan associations by Section 545.6-4a of the Federal Home Loan Bank Board Regulation 545, as amended by the Federal Home Loan Bank Board on September 30, 1980, effective October 8, 1980, and again amended by the Federal Home Loan Bank Board on July 14, 1981, effective July 22, 1981.

#### **Editor's Note**

This regulation, which became effective November 13, 1981, was numbered 15-40-F by the State Board of Financial Institutions. Because the regulation contains subject matter generally treated in Article 1, and not Article 2 as the original number suggests, the regulation has been designated as 15-39F by the publisher's editorial staff.

### **15-39G. Balloon Payment and Reverse Annuity Mortgage Loans by State-chartered Savings and Loan Associations.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered savings and loan associations will be authorized to make balloon payment mortgage loans and reverse annuity mortgage loans under the same terms and conditions as will be permitted federally chartered savings and loan associations by a proposed amendment dated July 14, 1981, of the Federal Home Loan Bank Board to part 545, subchapter C, Chapter V of Title 12, Code of Federal Regulations.

#### **Editor's Note**

This regulation, which became effective November 13, 1981, was numbered 15-40-G by the State Board of Financial Institutions. Because the regulation contains subject matter generally treated in Article 1, and not Article 2 as the original number suggests, the regulation has been designated as 15-39G by the publisher's editorial staff.

### **15-39H. Repealed.**

HISTORY: Former Regulation, titled Financial Institutions May Share in Ownership or Lease and Operation of Freestanding Automatic Teller Machine Branches, repealed by SCSR 48-11 Doc. No. 5291, eff November 22, 2024.

### **15-39I. Personal Property Leasing by State-chartered Savings and Loan Associations.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered savings and loan associations may engage in personal property leasing under the same terms and conditions as permitted federally chartered savings and loan associations by Federal Home Loan

Bank Board Regulation Parts 541 and 545 of Subchapter C and Part 561 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as amended by Regulation Number 82-21 dated January 14, 1982, of the Federal Home Loan Bank Board.

Editor's Note

This regulation, which became effective February 26, 1982, was numbered 15-40-J by the State Board of Financial Institutions. Because the regulation contains subject matter generally treated in Article 1, and not Article 2 as the original number suggests, and to retain the proper sequencing, the regulation has been designated as 15-39I by the publisher's editorial staff.

**15-39J. Personal Property Leasing by State-chartered Banks.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered banks may engage in the leasing of personal property under the same terms and conditions as permitted national banks by 12 CFR Chapter 1—Section 7.3400, Department of the Treasury, Office of the Comptroller of the Currency, Regulation dated April 13, 1979.

Editor's Note

This regulation, which became effective February 26, 1982, was numbered 15-40-K by the State Board of Financial Institutions. Because the regulation contains subject matter generally treated in Article 1, and not Article 2 as the original number suggests, and to retain the proper sequencing, the regulation has been designated as 15-39J by the publisher's editorial staff.

**15-39K. Correspondent Activities by State-chartered Savings and Loan Associations.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered savings and loan associations are authorized to engage in correspondent activities in the same manner as permitted federally chartered savings and loan associations by Federal Home Loan Bank Board Regulation Part 545, Subchapter C, Chapter V of Title 12, Code of Federal Regulations, Number 82-266 dated April 15, 1982, effective May 21, 1982.

Editor's Note

This regulation, effective May 28, 1982, was numbered 15-40-L by the State Board of Financial Institutions. Because the regulation contains subject matter generally treated in Article 1, and not Article 2 as the original number suggests, and to retain the proper sequencing, the regulation has been designated as 15-39K by the publisher's editorial staff.

**15-39L. State-chartered Banks Purchasing Bank Acceptances.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered banks may purchase bank acceptances made by other banks in excess of 15% of the purchasing bank's capital stock, surplus, and capital notes and debentures, but not to exceed in the aggregate

at any time more than 50% of the bank's paid-up capital stock, surplus, and capital notes and debentures, provided the acceptance purchased meets one of the following requirements:

(1) The drafts or bills of exchange drawn upon the accepting bank shall have not more than six months sight to run, exclusive of days of grace, which grow out of transactions involving the importation or exportation of goods; or which grow out of transactions involving the domestic shipment of goods; providing shipping documents conveying or securing title are attached at the time of acceptance or which are secured at the time of acceptance by warehouse receipts or other such document conveying or securing title covering ready marketable staples.

(2) The drafts or bills of exchange drawn upon the accepting bank shall have not more than three months sight to run, exclusive of days of grace, drawn under regulations of the Board of Governors of the Federal Reserve System by banks or bankers in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries, dependencies, or insular possessions; provided, however, that such drafts or bills of exchange are accompanied by documents conveying or securing title or by some other adequate security.

#### Editor's Note

This regulation, which became effective July 23, 1982, was numbered 15-40-M by the State Board of Financial Institutions. Because the regulation contains subject matter generally treated in Article 1, and not Article 2 as the original number suggests, and to retain the proper sequencing, the regulation has been designated as 15-39L by the publisher's editorial staff.

#### **15-39M. Terms and Conditions for State-chartered Savings and Loan Associations to Engage in Financial Options Trading.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered savings and loan associations are authorized to engage in financial options trading in the same manner as permitted federally chartered savings and loan associations by Federal Home Loan Bank Board Regulations Parts 545 and 563, Subchapters C and D, Chapter V of Title 12, Code of Federal Regulations, Number 82-557, as amended August 11, 1982, effective September 13, 1982.

HISTORY: Added by State Register Volume 6, eff November 26, 1982.

#### **15-39N. Terms and Conditions for State-chartered Savings and Loan Associations to make Home Mortgage Loans.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered savings and loan associations are authorized to make home mortgage loans under the same terms and conditions as permitted federally chartered savings and loan associations by Federal Home Loan Bank Board Regulations Parts 545 and 555 of Subchapter C and Parts 561, 563 and 570 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, Number 82-558, as amended August 11, 1982, effective August 16, 1982.

HISTORY: Added by State Register Volume 6, eff November 26, 1982.

**15-39O. State-chartered Savings and Loan Associations Authorized to Act as Depository and Fiscal Agent to the Government.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State-chartered savings and loan associations are authorized to act as depository and fiscal agent of the Government in the same manner as permitted federally chartered savings and loan associations by Federal Home Loan Bank Board Regulations Parts 523 and 526 of Subchapter B, Part 545 of Subchapter C, and Parts 561, 563 and 564 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as amended August 11, 1982, effective August 11, 1982.

HISTORY: Added by State Register Volume 6, eff November 26, 1982.

**15-39P. State-chartered Savings and Loan Associations Authorized to Engage in Activities Authorized by the Federal Home Loan Bank Board.**

(Statutory Authority: 1976 Code Sections 34-1-110)

The Garn-St Germain Depository Institutions Act of 1982 permits federally chartered savings and loan associations to engage in certain activities such as Demand Deposits, Governmental Unit NOW Accounts, Commercial Real Estate Loans, Commercial Loans, and Consumer Loans. However, before federally chartered savings and loan associations can engage in these activities, the Federal Home Loan Bank Board must promulgate a regulation authorizing these activities. On November 4, 1982, the Federal Home Loan Bank Board adopted Temporary final rule No. 82 which permits federally chartered savings and loan associations to engage in the above-mentioned activities, effective retroactively to October 15, 1982, the date of the enactment of the Garn-St Germain Depository Institutions Act of 1982.

State-chartered savings and loan associations are authorized to engage in those activities mentioned above that are authorized by the Federal Home Loan Bank Board for federally chartered savings and loan associations by Temporary final rule No. 82, dated November 4, 1982.

HISTORY: Added by State Register Volume 7, Issue No. 2, eff February 25, 1983.

**15-39Q. Alternative Mortgage Consumer Loans.**

(Statutory Authority: 1976 Code Sections 34-1-60 and 37-3-412)

With respect to a consumer loan (as defined in Consumer Protection Code Sections 37-3-104 and 37-3-105) which is secured in whole or in part by a lien on real estate under which the aggregate of all sums advanced or contemplated by the parties in good faith to be advanced will not exceed \$100,000.00, state-chartered banks, state-chartered savings and loan associations, and state-chartered credit unions (individually, a "financial institution") are authorized to make alternative mortgage loans (as defined in Consumer Protection Code Section 37-1-301 (5)); provided that, if the rate is variable:

any index to which the variable rate is linked is beyond the control of the financial institution making the loan and is readily available to and verifiable by the borrower, and

disclosures related to rate variations comply with the variable rate disclosure requirements of the Truth in Lending Act (15 U.S.C. Sections 1601 et seq.), as implemented by Federal Reserve Board Regulation Z

(12 C.F.R. Part 226), both as amended from time to time. (NOTE: When permitted by Regulation Z, compliance with variable rate mortgage disclosure requirements contained in regulations of other federal agencies, as amended from time to time, such as the disclosure provision of the Adjustable-Rate Mortgage regulation of the Comptroller of the Currency (12 C.F.R. Part 29) and the home loan disclosure provision of the regulations of the Federal Home Loan Bank Board (12 C.F.R. Part 545), may be substituted for Regulation Z variable rate disclosures.) Regulation was adopted March 22, 1985.

HISTORY: Added by State Register Volume 9, eff March 22, 1985.

#### **15-39R. Repealed.**

HISTORY: Former Regulation, titled Regulatory Net Worth Requirements, had the following history: Added by State Register Volume 10, Issue No. 5, eff May 23, 1986. Repealed by SCSR 48-11 Doc. No. 5288, eff November 22, 2024.

#### **15-39S. Liquid Assets.**

(Statutory Authority: 1976 Code Sections 34-1-60)

Every state-chartered savings and loan association and savings bank must maintain at all times at least 5% of its total liabilities in liquid assets as defined in Section 34-28-30, Subsection (13), Code of Laws of South Carolina.

Total liabilities are defined as total assets less loans in process, specific reserves, deferred credits other than deferred taxes, and tangible net worth.

HISTORY: Added by State Register Volume 10, Issue No. 5, eff May 23, 1986.

## ARTICLE 2

### Cooperative Credit Unions

#### Editor's Note

At its meeting on January 3, 1968, the Board of Bank Control passed a resolution that if a credit union wishes to amend its bylaws, it must obtain prior written approval from the Board of Bank Control or the Chief Examiner before such amendment shall become effective.

#### **15-40. Repealed.**

HISTORY: Former Regulation, titled Notice of Intention to Withdraw Shares, repealed by SCSR 48-5 Doc. No. 5208, eff May 24, 2024.

#### **15-41. Limitations and Restrictions on Real Estate Mortgages.**

Except as hereinafter provided, no credit union shall make any loan or advance of credit of any nature secured by a mortgage of real estate (either direct or assigned as collateral) or by any other instrument giving or purporting to give a lien on real estate until it shall have first secured the following:

(a) A certificate of title or other satisfactory certificate of insurance as to the title of the property and the status of all assessed taxes. Such certificate shall be made and dated after the mortgage is recorded.

(b) An appraisal of the mortgaged premises in writing. Unless otherwise instructed by the State Board of Financial Institutions or the Commissioner of Banking, when making loans secured by real estate mortgages, credit unions shall follow the Interagency Appraisal and Evaluation Guidelines as federally chartered institutions are permitted to do.

HISTORY: Amended by State Register Volume 14, Issue No. 5, eff May 25, 1990; SCSR 47-11 Doc. No. 5220, eff November 24, 2023.

#### **15-42. Repealed.**

HISTORY: Former Regulation, titled Authority to Engage in Activities Authorized for Federally Chartered Institutions, repealed eff May 23, 2025.

#### **15-43. Executive Committee.**

(Statutory Authority: 1976 Code Sections 34-1-110)

The Board of Directors of a State chartered credit union may appoint an executive committee of not less than three directors to exercise such authority as may be delegated to it subject to such limitations as may



be prescribed by the Board. All actions of the executive committee shall be approved and confirmed by the Board at the next meeting.

Credit unions shall amend their by-laws to implement this regulation if they wish to appoint an executive committee.

#### **15-44. Borrowing by Credit Unions.**

(Statutory Authority: 1976 Code Sections 34-1-110)

State chartered credit unions may borrow from sources as specified in the South Carolina Statutes Relating to Cooperative Credit Unions and may use promissory notes in the form of Certificates of Indebtedness and may specify that the certificate (1) cannot be called for a specified period of time and (2) that in the event the certificate is called prior to the agreed upon date that a lesser rate of interest specified in the certificate will apply to the indebtedness.

The certificate of indebtedness shall state on its face in bold type that, "THIS CERTIFICATE REPRESENTS AN UNSECURED LOAN TO THE CREDIT UNION AND IS NOT INSURED BY THE NATIONAL CREDIT UNION ADMINISTRATION."

#### **15-45. Repealed.**

HISTORY: Former Regulation, titled Electronic Funds Transfers, repealed eff May 23, 2025.

#### **15-47. Merger Procedures for State Credit Unions.**

##### **I. SCOPE**

(a) Pursuant to Section 34-26-1210, a South Carolina state chartered credit union may merge with another South Carolina state chartered credit union, an out-of-state credit union, or a federal credit union with approval of each credit union's regulator. The following procedures shall apply to all proposed mergers involving a South Carolina state chartered credit union.

##### **II. DEFINITIONS**

(a) As used herein:

(1) "Continuing credit union" means the credit union that will continue in operation after the merger.

(2) "Federal credit union" means any credit union chartered by the National Credit Union Administration.

(3) "Merger" means a transaction between two or more credit unions, one of which is a South Carolina state-chartered credit union, in which the credit unions consolidate to form one credit union.

(4) "Merger Proposal" means the information requested in Subsection III(a) of this regulation.

(5) "Merging credit union" means the credit union(s) that will cease to exist as an operating credit union at the time of the merger.

(6) "Merger-related financial arrangement" has the meaning set forth in for this term in 12 CFR 708b.2.

(7) "Out-of-state credit union" means any credit union chartered under the laws of a state or territory of the United States other than South Carolina.

(8) "Record Date" means the date announced by the Board of Directors of the merging credit union as the date by which a person must have been a member of the merging credit union to be eligible to vote on a proposed merger.

(9) "South Carolina state chartered credit union" means any credit union chartered under the laws of South Carolina.

### III. MERGER PROPOSAL REQUIREMENTS AND PROCEDURE

(a) The Board of Financial Institutions must review and approve a proposed merger before the merging credit union(s) may submit the merger to a membership vote. When requesting this approval, a Merger Proposal shall be submitted to the Commissioner of Banking which shall include the following materials:

(1) Resolutions approved by a majority of the members of the Boards of Directors of the continuing credit union and the merging credit union(s) that indicate agreement to pursue a merger;

(2) A Merger Plan which includes:

(i) Current financial reports of each credit union as of the same date;

(ii) Current delinquent loan summaries and analyses of the adequacy of the Allowance for Credit Losses accounts of each credit union as of the same date;

(iii) Consolidated financial report that describes any provisions for reserves, undivided earnings or dividends;

(iv) An analysis of share values and an explanation of any proposed share adjustments;

(v) Provisions with respect to notification and payment of creditors;

(vi) Description of any merger-related financial arrangement;

(vii) Explanation of any anticipated changes relative to insurance of member accounts; and

(viii) A certification that all assets and liabilities of the continuing credit union will conform with the South Carolina Credit Union Act and applicable rules and regulations, where the continuing credit union is a South Carolina state chartered credit union;

(3) Proposed bylaws for the continuing credit union;

(4) Names of individuals proposed to serve on the Board of Directors of the continuing credit union;

(5) Proposed merger agreement;

(6) Proposed Notice of Meeting for the member meeting at which the merging credit union(s)' membership(s) will vote on the proposed merger, which may be the annual meeting or a special meeting, which shall contain a statement that members may vote on the proposed merger in person or by mail ballot (or electronically, if the merging credit union(s)' bylaws permit) received by the merging credit union(s) no later than the date and time announced for the member meeting called to vote on the proposed merger.

(i) If the vote is to be taken at an in-person meeting, the notice shall specify the purpose of the meeting and the time and place.

(ii) If the vote is to be taken by mail or electronic ballot, the notice shall contain instructions for ballot submission and the opening and closing dates for ballot submission. The electronic ballot submission period shall remain open for no less than 5 days and shall end at the date and time announced for the member meeting called to vote on the proposed merger.

(7) A summary of the merger plan, which shall contain, but not necessarily be limited to, the following:

(i) A statement that the merging credit union(s) does or does not have a net worth percentage higher than the continuing credit union;

(ii) A statement as to whether the members of the merging credit union(s) will receive a share adjustment or other distribution of reserves or undivided earnings, including a summary of reasons for the decision; and

(iii) A detailed description of all merger-related financial arrangements that includes the recipient's name, title and the amount or value of the merger-related financial arrangement.

(8) Statement of the reasons for the proposed merger;

(9) The name of the continuing credit union and its proposed principal place of business;

(10) Listing of branches of each credit union by street address that identifies whether each location is to be closed or retained, and a justification for each expected closure, to include an explanation of how members are to be served in the area of the closed branch;

(11) Current financial statements for each credit union and a consolidated financial statement for the continuing credit union; and

(12) A paper Ballot for Merger Proposal.

(b) The Commissioner of Banking shall review the Merger Proposal and may request correction, clarification, and/or additional information from each credit union prior to presenting the Merger Proposal to the Board of Financial Institutions for consideration.

(c) Upon the review by the Commissioner of Banking of a completed Merger Proposal, the Board of Financial Institutions will consider and act on the proposed merger.

(d) Within 120 calendar days following the Board of Financial Institutions' approval, a majority of the members of the merging credit union(s) must vote to approve the proposed merger. Members must be members as of the Record Date to vote. The Notice of Meeting, as submitted in the Merger Proposal, must be sent to all members of each credit union who are eligible to vote on the transaction, postmarked at least 45 calendar days before the date of the meeting.

(e) The Board of Directors of the merging credit union(s) must certify the results of the membership vote to the Commissioner of Banking within 10 calendar days after the vote is taken. The certification must include the total number of members of record of the credit union, the number who voted on the merger, the number who voted in favor and the number who voted against.

(f) The Board of Directors of the continuing credit union must certify the completion of the merger to the Commissioner of Banking within 30 calendar days after the effective date of the merger and provide the Articles of Merger filed with the South Carolina Secretary of State.

HISTORY: Amended by State Register Volume 7, Issue No. 7, eff July 22, 1983; State Register Volume 14, Issue No. 5, eff May 25, 1990; SCSR 49-1 Doc. No. 5357, eff January 24, 2025.

#### **15-48. Repealed.**

HISTORY: Former Regulation, titled Procedure for State Credit Unions to Use Share Drafts, repealed by SCSR 48-11 Doc. No. 5282, eff November 22, 2024.

#### **15-49. Leasing of Personal Property by State-chartered Credit Union.**

(Statutory Authority: 1976 Code Sections 34-1-60)

State-chartered credit unions may engage in the leasing of personal property as follows:

(a) A state-chartered credit union may:

(1) Become the legal owner and lessor of specific personal property or otherwise acquire such property at the request of the lessee who wishes to lease it from the credit union. A credit union cannot own an inventory of personal property for future lease.

(2) Incur obligations incidental to its position as the legal owner and lessor of the leased property if the lease is a net, full-payout lease representing a noncancelable obligation of the lessee, notwithstanding the possible early termination of that lease.

(b) A "net lease" is a lease under which the credit union will not, directly or indirectly, provide or be obligated to provide for:

(1) The servicing, repair or maintenance of the leased property during the lease term.

(2) The purchasing of parts and accessories for the leased property.

(3) The loan of replacement or substitute property when the leased property is being serviced.

(4) The purchasing of insurance for the lessee, except where the lessee has failed in its contractual obligation to purchase or maintain the required insurance.

(c) A "full-payout" lease is one from which the lessor can reasonably expect to realize a return of its full investment in the leased property plus the estimated cost of financing the property over the term of the lease from rentals and the estimated residual value of the property at the expiration of the initial term of the lease.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff March 25, 1983.

#### **15-50. Declaration of Dividends by State-chartered Credit Unions.**

(1) For purposes of declaring and paying dividends in accordance with S.C. Code Section 34-26-710, the following definitions shall be applied:

(a) "Current Earnings" is defined as fiscal year-to-date Net Income (after the payment of prior dividends during the current fiscal year) less any transfers to the Regular Reserves that a credit union must fund through year-to-date income.

(b) "Undivided Earnings" is defined as the post-closing balance of the Undivided Earnings account as of the end of the prior fiscal year and adjusted for any decreases during the current year that were funded by Undivided Earnings.

(2) A credit union may declare a dividend that is to be paid from Undivided Earnings without making a written request to the Commissioner of Banking for a prior approval if:

(a) after the dividend payment, the credit union will have a net worth ratio (as defined by 12 C.F.R. §702.2) of at least 8%;

(b) the credit union's rating is a 1 or a 2; and

(c) it has adequately provided for loan losses.

In such a case, the credit union may pay the dividend. However, the credit union must within 30 days of paying the dividend send a letter to the Commissioner of Banking identifying the amount and date of the dividend paid and certifying that the credit union met the three requirements of this regulation at the time the dividend was paid.

Provisions of a formal or informal enforcement action may limit a credit union's ability to pay a dividend that would otherwise be permissible as described in this regulation.

HISTORY: Amended by State Register Volume 16, Issue No. 5, eff May 23, 2025.

#### **15-51. Repealed.**

HISTORY: Former Regulations, titled Terms and Conditions for State-chartered Credit Union to Make ARM Loans, repealed eff May 23, 2025.

#### **15-52. Repealed.**

HISTORY: Former Regulation, titled Increase in Field of Membership, had the following history: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Repealed by SCSR 48-11 Doc. No. 5297, eff November 22, 2024.

#### **15-53. Reports of Condition.**

Credit unions incorporated under Title 34 of the South Carolina Code of Laws shall file quarterly reports of financial condition with the Board of Financial Institutions pursuant to 34-26-260(1). A credit union may fulfill this requirement by submitting to the Board the same quarterly report of financial condition which the credit union provides to the National Credit Union Administration.

HISTORY: Added by SCSR 47-11 Doc. No. 5212, eff November 24, 2023.

#### **15-54. Record Retention for Credit Unions.**

(1) In addition to the applicable record retention requirements set forth for non-profit corporations in S.C. Code § 33-31-1601, South Carolina state chartered credit unions are required to maintain records in accordance with applicable federal standards.

(2) Additionally, these institutions must maintain the following records as set forth below:

(a) Five Years

(i) General Ledger/Subledger Accounts – Records of all general ledger and subledger accounts that comprise the daily income statement and balance sheet.

(ii) Audit Reports – Internal and external audit reports, including any applicable supporting workpapers.

(b) Three Years After Payoff or Disposition, unless otherwise required by federal statutes or regulations,

(i) Loan and Deposit/Share Accounts – Records of all loan and deposit/share accounts. Full credit documentation that includes evidence of collateral security and underwriting support of the credit must be maintained and applied to modifications, renewals, extensions and collections.

(3) Nothing in this regulation shall limit an institution from retaining records beyond the required retention period.

HISTORY: Added by State Register Volume 16, Issue No. 5, eff May 23, 2025.

## ARTICLE 3

### Consumer Finance Act Regulations

Statutory authority: 1976 Code Sections 34-29-110

#### 15-60. Consumer Finance Act.

(a) Name of Manager: The name of the manager or other officer in charge of the licensed place of business must be filed with the Board of Bank Control and notice of any change in management promptly reported, giving the name of new manager, employment record for previous five-year, with names and addresses of former employers, positions held, and dates covering each position. The immediate superior of such manager shall be responsible for complying with this section.

(b) Purchase of Accounts: Any licensee who purchases loan accounts from another licensee or through any means shall notify the Board of Bank Control ten (10) days before such purchase, stating the name and address of the licensee or other source from whom the purchase is to be made, the number of accounts involved and the total balance due thereon.

(c) Sale of Accounts: Any licensee who sells loan accounts to another licensee shall notify the Board of Bank Control within ten (10) days before such sale, stating the name and address of the person, firm or corporation to whom the sale is to be made, the number of accounts involved and the balance due thereon.

(d) Examination Fees: For each examination by the Board of Bank Control or its representative, with the exception of the first examination in the calendar year, a fee will be charged for the actual cost of such examination in the amount of twenty-five dollars (\$25.00) for each day or part thereof.

(e) Books and Records: Every licensee shall keep the following books and accounting records at the place of business designated in the license:

(1) Loan Register: Every licensee must keep the following information readily available and in such form as is acceptable to the Board of Bank Control. Each loan must be recorded and kept currently posted daily in consecutive numerical order showing the following information. This could be individual looseleaf form, one book or a combination form.

A. Loan number.

B. Date of loan.

C. Name of borrower.

D. Brief description of security.

E. Amount of gross note—\$150.00 or less.

Amount of gross note—\$150.01—\$300.00

Amount of gross note—\$300.01—\$1,000.00

Amount of gross note—\$1,000.01—\$4,000.00

Amount of gross note—\$4,000.01—\$7,500.00.

(2) Account Record Card: A separate account record ledger sheet or card must be maintained for each loan made to any one borrower. Each account record card must be posted in ink or typewriter with no erasures in a clear and legible manner, with spaces provided for the following information:

A. Loan register number of loan.

B. Date of loan.

C. Name, address, marital status, date of birth and occupation of borrower.

D. Brief description of security, if any.

E. All charges itemized as follows:

(1) Cash to borrower.

(2) Insurance premium—Life.

Insurance premium—A&H.

Insurance premium—Property.

(3) Initial charge.

(4) Finance charge.

(5) Others (Explain).

F. Total amount of obligation, including all charges.

G. Terms of repaying.

H. All scheduled repayment dates listed on account record (if weekly). On a monthly contract, at least first month repayment date must appear.

I. All payments recorded opposite scheduled repaying dates showing the following:

(a) Date of payment.

(b) Total amount paid.

(c) Delinquent or deferment charge, if any.

(d) Remaining balance.

J. Name and address of co-maker or endorser, if any.

K. All refunds itemized and signed by borrower on account record card or stapled thereto.



L. Date of death of borrower on face of account card in case maker dies during the term of loan contract.

M. All paid-out individual account records, borrower renewals, etc., must be filed alphabetically or by account number, or monthly renewal date, and kept for two (2) years. Violations will be noted when licensees cannot locate an account card within a reasonable time after request.

When an error is made on an individual account record card, a line shall be drawn through the improper entry, the correct entry made on the following line, and the correcting entry initialed by the individual making such correction. The entries on the individual account record shall correspond with the receipts given the borrower. No erasures, whatsoever, may be made on the face of the individual account record. This includes the refund section.

(3) Cash Report: In the cash report, all transactions of receipts and disbursements of any amount whatsoever shall be entered. All such entries must be made as of the exact date of transaction. The cash report must be balanced at least weekly. This report must be sufficient to reflect opposite the borrower's name, or account number, the following information:

- A. All charges itemized against loan.
- B. Payments received.
- C. Late fees received and/or deferment charge.
- D. Refunds itemized against appropriate item.

(4) General Ledger: The general ledger must show in full detail the assets and liabilities of the business conducted in the licensed office. If you have a general ledger reserve account for bad debts, all recoveries or collections on accounts previously charged off must be credited to this account. The general ledger shall be posted at least monthly and a trial balance or balance sheet must be prepared within twenty days after a request from the Consumer Finance Division, Board of Bank Control. Organizations operating more than one licensed office may maintain a general ledger at their home office, provided the trial balance or balance sheet of the licensed offices are available to the Consumer Finance Examiner at the licensed offices within twenty days after request.

The Board of Bank Control reserves the right to require that the general ledger maintained at the home office be produced promptly after notice to the licensee. Any charge made to any licensed office by the home office to cover any item of expense must be in such detail as to show the nature of the expense. The use of combination forms of daily reports or special systems must be approved by the Board of Bank Control.

(5) Individual File or Shucks: An envelope or other similar file, commonly called shucks, must be maintained for each borrower, in which shall be filed all of the original notes or other evidences of indebtedness or security. If the original note is not on file, a memo indicating the whereabouts of the original shall be so filed in the said envelope. All legal instruments taken in connection with any loan contracts must bear the consumer finance number.

Only one file shall be maintained for each borrower, regardless of the number of loans closed or outstanding, except where such borrower is a co-maker, guarantor or endorser with other borrowers.

(6) Index to Borrowers: Every licensee will keep an index record filed alphabetically or by account number on which all loans to each individual will be entered. This index may be kept on the face of the individual file or shuck, as per paragraph (5). The following information must be entered in order showing

- (1) Loan number.
- (2) Date made.
- (3) Gross amount of note.
- (4) Date of cancellation.

(7) Records: All records and papers, including notes and other evidences of indebtedness or security signed by the borrower, shall be kept in the licensed place of business and made available to the representatives of the Board of Bank Control at any time without previous notice, unless the notes hypothecated or deposited as collateral, in which case they must be under agreement permitting the representatives of the Board of Bank Control to examine the notes so hypothecated at any time. In the event such notes are deposited as collateral, unsigned copies of the same shall be kept on hand for examination.

The records of the licensee, such as individual account records or similar records, shall contain all essential details with respect to court actions involving collection of loans. The amount of court costs charged to the borrower shall be shown thereon. The files of the licensee must show that all pertinent provisions of the law have been complied with.

If any other business than that authorized under the Consumer Finance Act is conducted in the same office, the licensee shall fairly and equitably allocate all expenses for the purpose and with the result that the books relating to the licensee's business under the Act will fairly reflect the expense of conducting such business.

(f) Copy of the S.C. Consumer Finance Act and Regulations: Each licensee will be issued one (1) complete set of the Consumer Finance Act and Regulations, which must be used and kept on file in each licensee's place of business. Additional copies may be obtained from the Consumer Finance Division for the sum of \$1.00 per set which must accompany the request.

(g) Deposited Notes: When a note and/or mortgage has been deposited as collateral and is not physically present in the office when a loan is discharged in full, a statement shall be given the borrower, signed by the manager, which states that the loan is terminated and that the note and/or mortgage are cancelled. Within thirty (30) days thereafter, the original note and/or mortgage shall be obtained and returned to the borrower.

(h) Phrases Permissible: No licensee shall state or indicate that he is licensed by or subject to the Board of Bank Control or the State of South Carolina, except by use of the following phrase: "Licensed by the State of South Carolina". This phrase must be widely separated and distinct from any other phrase or information published in sign or letter form.

Advertising or signs shall not be displayed which tend to create the impression that rates, delinquent or deferment charge, etc., are required or demanded by the Consumer Finance Act.

(i) Rate Schedule: If any licensee advertises that loans will be made at a specified schedule, it must include the actual cash given to the borrower, after ALL deductions have been made, together with the total number, time between and the amount of each payment. Loans actually made of the class advertised shall not be subject to any higher schedule of charges.

(j) Consolidating of Other Loans: Licensees shall not state or suggest in any advertising in any manner that they will pay and discharge a loan which the prospective borrower has with another licensee, provided that advertising of loans for the purpose of consolidating outstanding obligations shall be permitted.

(k) Outside Solicitation: No licensee shall advertise for or solicit loans by having an agent or employee of such licensee make a door to door campaign distributing handbills, circulars or loan applications.

(l) Business Hours: The place of business designated in the license shall be open to receive payments from borrowers during customary hours of each business day.

(m) Qualified Personnel: A qualified agent of the company with a working knowledge of the South Carolina Consumer Finance Act must be present during business hours.

(n) Contracts: This Act only permits monthly contracts, but payments may be scheduled weekly for the convenience of the borrower. In no instance should section 14(a)(1) of the Act be interpreted as to assume that the monthly finance charge may be earned in any other method except by full calendar months, or days if pro-rated. This also applies to the delinquent charge which may be computed on the full unpaid dollars on the fifth day or after a full calendar month has expired.

(o) Initial Charge: On loans of \$1,000.00 or less, 6% of the cash advance may be assessed up to \$18.00. This is not to be construed as an additional finance charge or interest but, as per the Act, this is a charge which is earned for performing certain services and includes reimbursement of certain expenses. The burden of proof of earning this charge will be placed on the lender in case of complaint or legal action. For the purpose of this section, the time element for retaining this charge on renewals is three (3) full calendar months, with the date of month corresponding to the date of contract to be considered the first day of the next period. This charge is either wholly earned or not earned at all, and cannot be divided in any manner. Although not subject to refund, full credit must be given the borrower on the subsequent loan if the account is reopened during the restrictive period.

(p) Refunds: All refunds shall be made in cash. Refunds may be subtracted from the current loan in order to find the net balance the borrower owes. It cannot be credited to the subsequent or new loan.

On loans renewed or refinanced during the first ninety (90) days, refunds are made on a pro-rata basis computed daily. A loan paid out by any method ninety-one (91) days or over shall be refunded under the Rule of 78ths, with one day constituting a month. If a loan is paid out in ninety (90) days or less, refunds may be made under the Rule of 78ths, but if the customer reopens his account within the restricted period, the loan will be considered a "renewal" and the customer should receive the difference in refunds between the Rule of 78ths and pro-rata as of the date of the pay off.

(q) More Than One Contract: No licensee shall induce any person to become obligated directly or contingently, or both, under more than one contract or loan at the same time by referring such person to another licensed place of business in which such licensee has an interest directly or indirectly or by any plan or agreement between two licensees having no interest in the business of the other licensee for the purpose of or with the result of obtaining a higher rate of interest or greater charge than would otherwise be permitted by this Act.

(r) Splitting of Loans: Although not absolutely prohibited, extreme care should be exercised by the licensee to make certain that the charges do not exceed that which would be allowed if only one loan was made for the consolidated amount. This includes the initial and finance charges.

(s) Fees: Notary fees cannot be charged on any loan written under the Consumer Finance Act.

(t) Deferment Charge: When a deferment charge is granted, permitted, or assessed, the borrower must sign a statement on the date of such agreement to the effect that such charge has been paid or will be added to the account, as the case may be. The borrower must be furnished a legible copy of such statement containing all details of the transaction.

When a loan is prepaid prior to the new maturity date, refund of the finance charge shall be computed upon the number of monthly payments outstanding at the time of prepayment under the extended maturity date of the contract.

(u) Receipts or Coupon Book: For each payment made on any loan, the licensee shall furnish a full and complete receipt or coupon showing the following information:

- (1) Loan number.
- (2) Name or number of borrower.
- (3) Principal payment.
- (4) Late fee, if any.
- (5) Name of licensee.
- (6) Name or initial of person issuing the receipt.

(v) Statement of Pay-Off: Each licensee shall upon personal request furnish the borrower a written statement with respect to the amount of money necessary to pay off the account. This statement shall disclose the following information:

- (1) Date of request.
- (2) Net pay-off, including delinquent charge and refunds, if applicable, (as of the date of request).
- (3) Date loan must be paid prior to in order to obtain net pay-off.
- (4) Signature of person furnishing statement.

(w) Blanks in Loan Papers: Before the borrower's signature is affixed, all blank spaces on every document which a borrower is required to sign in obtaining a loan must be completed. Where the combination note and mortgage is used and the borrower has to sign at the bottom, the mortgage must be marked NONE, when only the note section is used. The borrower must be furnished a legible copy of the note and mortgage.

(x) Checks as Security: No licensee shall take a check or checks from a borrower for the purpose of holding the same as evidence of the indebtedness incurred by a borrower.

(y) Mortgages' Signatures: All chattel mortgages taken as security on a loan must have the signature of the spouse when the mortgage applies to household furniture. Household furniture can be defined as anything in the house which is used by the whole family and, if taken by legal action, would create a hardship. For example—a bedroom suite, refrigerator, washing machine, living room suite, etc., would be

considered household furniture and requires both signatures. Lawn mower, sewing machine, radios, tools, automobile, etc., would not be considered household furniture for the purpose of this section.

(z) Power of Attorney: No power of attorney can be used.

#### 15-61. Consumer Finance Charges.

##### A. Maximum Charges Permitted (Initial Charge): [Sections 34-29-140(a)]

*Prior Cash Advance		*New Cash Advance	Refinancing Period	Maximum Initial Charge Allowed
*1.	\$1,000 or less	\$1,000 or less	Within 3 months	6% of the excess of the new cash advance over the prior cash advance. Provided, however, the aggregate of all initial charges received within the first 3 months of the original loan, regardless of the number of renewals, shall not exceed 6% of the highest cash advance within such 3 months period or \$18.00, whichever is less.
2.	\$1,000 or less	\$1,000 or less	After 3 months	6% of New Cash Advance or \$18.00 whichever is less.
*3.	\$1,000 or less	In excess of \$1,000	Within 3 months	5% of excess of the New Cash Advance over prior cash advance or \$200.00, whichever is less.
4.	\$1,000, or less	In excess of \$1,000.00	After 3 months	5% of New Cash Advance or \$200.00 whichever is less.
*5.	In excess of \$1,000	In excess of \$1,000	Within 12 months	5% of excess of the New Cash Advance over the prior cash advance. Provided, however, the aggregate of all initial charges received within the first 12 months of the original loan, regardless of the number of renewals, shall not exceed 5% of the highest cash advance within such 12 months period or \$200.00 whichever is less.
*6.	In excess of \$1,000	In excess of \$1,000	After 12 months from inception date of original loan.	2% of the New Cash Advance. (See Footnote 1)
7.	In excess of \$1,000	\$1,000 or less	Within 12 months	None.
8.	In excess of \$1,000	\$1,000 or less	After 12 months	6% of New Cash Advance or \$18.00, whichever is less.

##### B. Definitions:

1. "New Cash Advance" shall mean the cash actually given the borrower or paid out at his direction or on his behalf, including the unpaid balance of the refinanced loan accompanying a renewed contract.

2. "Prior Cash Advance" shall mean the next preceding cash advance.

3. "Renewal Loan" shall mean carrying forward an old obligation by virtue of a new paper, whether or not a new cash advance is made.

4. The applicable rate for determining the initial charge for a cash advance is that rate specified for the class of loans in which the new cash advance falls.

5. "Refinancing period" shall mean that period stated in the provisions for the class of loan in which the prior cash advance fell.

### **15-63. Dollar Amount Changes.**

(Statutory Authority: Sections 34-29-140(j) and 37-1-109)

The dollar amount in the South Carolina Code Sections listed below shall change by increasing 10%. These sections shall change as indicated on July 1, 2000 in accordance with Section 37-1-109.

7/1/00 through 6/30/02

Consumer Finance Law		Change Dollar Amount	
Code Section	Subject	From	To
34-29-140(a)(2)	Loan Bracket	2,200.00	2,400.00
34-29-140(a)(2)	Loan Bracket	1,100.00	1,200.00
34-29-140(a)(2)	Loan Bracket	660.00	720.00
34-29-140(a)(3)	Loan Bracket	2,200.00	2,400.00

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 25, Issue No. 5, Part 1, eff May 25, 2001.

## **ARTICLE 4**

### **Mortgage Lending Act Regulations**

(Statutory Authority: 1976 Code Sections 37-22-110 et seq., particularly Section 37-22-260)

#### **15-64. Mortgage Lending.**

A. Definitions shall be those contained in the Mortgage Lending Act, S.C. Code Ann. Section 37-22-110 et seq.; Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 USC 5101, et seq.; S.A.F.E. Act, 12 CFR Parts 1007 & 1008 et seq.; and the following:

(1) Act - means the South Carolina Mortgage Lending Act, S.C. Code Ann. Section 37-22-110 et seq.

(2) Day - means all calendar days including Saturdays, Sundays and legal public holidays.

(3) Employee for purposes of compliance with the federal income tax laws - means a natural person whose manner and means of performance of work are subject to the right of control of, or are controlled by, a person, and whose compensation for federal income tax purposes is reported, or required to be reported, on a W-2 form issued by the controlling person. (See IRS Publication 1779 and Form SS-8)

(4) Notice - means written notification received by the Commissioner within seven (7) days of any change except as defined in Section 37-22-180(A)

(5) Prior Written Consent - means written consent given by the Commissioner authorizing a change of control prior to that change of control taking place. To request authorization from the Commissioner, all information regarding acquisition via stock purchase or other device must be sent to the Commissioner at least 30 days prior to the change of control.

#### **B. Use of NMLS&R unique identifier**

(1) The Nationwide Mortgage Licensing System & Registry (NMLS&R) unique identifier for the licensed Mortgage Lender/Servicer, the licensed Branch Office and the licensed Mortgage Loan Originator must be displayed on all mortgage loan applications. The NMLS&R unique identifier of the Mortgage Lender/Servicer and the unique identifier of the Mortgage Loan Originator must also be placed on the Promissory Note or Loan Contract and the Security Agreement as well as any other documents required by 12 CFR 1026.36(g). Only the unique identifier of the licensed Mortgage Lender/Servicer is required to be displayed on all other mortgage loan forms.

(2) For advertising purposes, the NMLS&R unique identifier of the licensed Mortgage Lender/Servicer and, if included in the advertisement, the licensed Mortgage Loan Originator must be used in all advertising as it is defined in the Act.

C. All South Carolina residential mortgage loans secured by real property are subject to the provisions of all South Carolina and federal law related to mortgage loans including, but not limited to, the Real Estate Settlement Procedures Act of 1974 (RESPA), 12 USC Section 2601 et seq.

#### **D. Reports**

(1) The Mortgage Log required pursuant to Section 37-22-210 shall:

(a) be completed electronically as required by the Consumer Finance Division. The licensee is responsible for all costs associated with the electronic filing, and

(b) include all mortgage loans or applications where a credit report is requested, regardless of whether a mortgage loan is originated or modified.

(2) The Annual Report required by Section 37-22-220 shall include, in addition to other statutory requirements, a Mortgage Call Report disclosing all residential mortgage origination and/or servicing activity conducted in the state of South Carolina (See Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 USC 5101 et seq.; SAFE Mortgage Licensing Act, 12 CFR parts 1007 & 1008 et seq.) consisting of:

(a) a loan activity report submitted electronically on a quarterly basis as required by the Nationwide Mortgage Licensing System & Registry (NMLS&R) by the Mortgage Lender/Servicer for all locations and loan originators, and

(b) a corresponding financial condition report submitted electronically as required by the Nationwide Mortgage Licensing System & Registry (NMLS&R).

(3) The Commissioner at his or her discretion may require or accept an Expanded Mortgage Call Report filed through the Nationwide Mortgage Licensing System & Registry (NMLS&R) or similar filing in lieu of the annual report required in 37-22-220(B).

E. An applicant must supply required information to the Consumer Finance Division pursuant to Section 37-22-140(M) within 120 days of initial submission or the application will be abandoned as incomplete.

F. The Nationwide Mortgage Licensing System & Registry (NMLS&R) may be used to store the List required by Section 37-22-210(A) and the Roster required by Section 37-22-210(B) in lieu of the Commissioners' office so long as the information may be provided in a reasonable time upon request.

HISTORY: Added by State Register Volume 36, Issue No. 6, eff June 22, 2012; State Register Volume 39, Issue No. 6, Doc. No. 4548, eff June 26, 2015; State Register Volume 41, Issue No. 5, Doc. No. 4690, eff May 26, 2017.



## **ARTICLE 5**

### **1998 ACT 433, SECTION 2, REGULATIONS**

(Statutory Authority: 1976 Code Sections 34-41-10 et seq., particularly Section 34-41-130)

#### **15-65. Check Cashing.**

A. Definitions shall be those contained in the Act, S.C. Code Ann. Section 34-41-10 et seq. and the following:

(1) Branch Location Certificate - means the certificate issued to each branch location of a licensee pursuant to 34-41-10(5).

B. Application for licensure.

(1) Licenses and Branch Location Certificates shall expire at the close of business on December 31<sup>st</sup> of each year.

(2) License and Branch Location Certificate renewal fees for the subsequent year must be paid to the Board of Financial Institutions - Consumer Finance Division through the Nationwide Multistate Licensing System no later than December 31<sup>st</sup> of each year, the expiration date of the current year's license and certificate.

HISTORY: Added by State Register Volume 41, Issue No. 5, Doc. No. 4689, eff May 26, 2017. Amended by SCSR 44-6 Doc. No. 4934, eff June 26, 2020; SCSR 47-5 Doc. No. 5140, eff May 26, 2023.

#### **15-66. Check Cashing - Use of the Nationwide Multistate Licensing System.**

A. The Board requires check-cashing licensees and applicants to use the Nationwide Multistate Licensing System ("NMLS") for all application, renewal, and other filings.

B. Pursuant to Section 34-41-40(A), the Board adopts as its own the forms and content requirements for all filings related to check-cashing as set forth within NMLS. Any South Carolina specific requirements posted in NMLS shall be part of the adopted forms and required contents.

C. After receiving and reviewing a filing in NMLS, the Consumer Finance Division may, if reasonable, request additional information or documentation from the applicant or licensee.

D. Applicants and licensees shall pay all fees and costs through NMLS.

HISTORY: Added by SCSR 47-5 Doc. No. 5140, eff May 26, 2023.

### **15-67. Check Cashing - Required Records and Retention Period.**

A. In order to comply with Section 34-41-60(E), a person required to be licensed by Chapter 41 must keep and maintain the following information for each check cashed for which a fee, a service charge, or other consideration is charged:

- (1) The name of the licensee.
- (2) The full name of the consumer.
- (3) The complete address of the consumer.
- (4) The transaction date.
- (5) The amount of the check.
- (6) The total amount of fees charged.
- (7) The name of the payor of the check.

B. As permitted by Section 34-41-70(A), a person required to be licensed under Chapter 41 shall retain each book, account, and record that is required to be kept and maintained for one year from the end of the person's fiscal year in which the book, account, or record was created.

HISTORY: Added by SCSR 47-5 Doc. No. 5142, eff May 26, 2023.

### **15-68. Check Cashing - Other Consideration.**

A. For purposes of Sections 34-41-10(3) and (4) and 34-41-30, "other consideration" includes, but is not limited to, the mandatory purchase of goods or services in order to cash a check.

B. Any vendor that imposes a mandatory purchase of goods or services by the customer to cash a check is engaged in check-cashing services and needs a Level I or Level II check-cashing license to engage in this activity.

C. In addition to all other required information, each applicant or licensee under Chapter 41, who accepts only other consideration in the form of a mandatory purchase of goods or services to cash a check, shall file on the Nationwide Multistate Licensing System, as part of the person's initial application for licensure and as part of its annual renewal for licensure a written affidavit. That affidavit shall state that the person does not cash checks for a fee, a service charge, or other consideration other than other consideration in the form of a mandatory purchase of goods or services. If the person's business practices change and the affidavit becomes or will become inaccurate, the person should notify in writing the Consumer Finance Division of this change, the date of the change, and the reasons for the change as soon as reasonably practical but no more than twenty days after the change.

HISTORY: Added by SCSR 47-5 Doc. No. 5141, eff May 26, 2023.