

1 **Rule 120-1-1-.01 Industrial Loan Commissioner-Deleted. Due to change in law, regulatory authority**
2 **will transfer to DBF**

3 (1) ~~Commissioner of Insurance/Comptroller General Ex-Officio Industrial Loan Commissioner. The Commissioner of~~
4 ~~Insurance/Comptroller General of the State of Georgia, ex officio, is designated and constituted the Industrial Loan Commissioner under the Act~~
5 ~~and is invested with all the powers and authority provided for in such Act. In addition to those powers specifically enumerated, it shall be his~~
6 ~~duty and authority to supervise generally and to exercise regulatory powers over the making of all loans subject to regulation pursuant to the~~
7 ~~Georgia Industrial Loan Act as codified in Chapter 3 of Title 7 of the Official Code of Georgia Annotated. All such loans are hereinafter referred~~
8 ~~to as industrial loans.~~

9 (2) ~~Power to make rules and regulations and to employ agents and employees. The said Commissioner is granted power and authority~~
10 ~~to make all rules and regulations not inconsistent with the provisions of the Act which in his judgement shall be necessary and appropriate to~~
11 ~~accomplish the purposes and objectives of the Act, including, without limitations, power and authority to make such rules and regulations~~
12 ~~regulating and controlling the manner in which industrial loans may be made under the Act. Such rules and regulations so promulgated by the~~
13 ~~Commissioner in his discretion, consistent with the terms of the Act and other applicable statutes, shall have the full force and effect of law.~~

14 (3) ~~Power to employ and compensate agents and employees. The Commissioner has the authority to designate and employ and~~
15 ~~compensate agents and employees in the manner other agents and employees are employed by his Department to assist him in the discharge~~
16 ~~of his duties under the Act, and the Commissioner is authorized and empowered to delegate to an assistant or deputy, authority to act in his~~
17 ~~place and stead in his absence or disability.~~

18 (4) ~~Training programs and seminars. The Commissioner is authorized to provide for training programs and seminars at such places, at~~
19 ~~such times, and in such manner as he shall deem advisable. Such programs and seminars shall be for the purpose of acquainting licensees and~~
20 ~~employees thereof with the provisions of the Act, with the rules and regulations promulgated thereunder, and with such other matters relative~~
21 ~~to the business authorized to be carried on by a licensee under the provisions of the Act as the Commissioner shall deem necessary.~~

22 (5) ~~Accept, inquire into and examine applications for licensees under the Act and to collect the fees authorized by law.~~

23 (6) ~~Issue licenses and renew such licenses.~~

24 (7) ~~Books and Records. Require the maintenance and use of sufficient books and records to enable him to determine whether or not a~~
25 ~~licensee is complying with the provisions of the Act or any other act under which such licensee is operating.~~

26 (8) ~~Examinations. The Commissioner may examine or cause to be examined for the purpose of discovering violations of the Act, the~~
27 ~~books, accounts, papers and records of any licensee, any person who advertises or, solicits or holds himself out as willing to make industrial~~
28 ~~loans, or any person whom the Commissioner has reason to believe is violating or is about to violate the provisions of the Act. The~~
29 ~~Commissioner may subpoena witnesses, books, accounts, papers and records, administer oaths, hold hearings, and take testimony under oath~~
30 ~~in conducting examinations and hearings authorized under the Act.~~

31 (9) ~~Cease and desist orders, injunction. The Commissioner may issue cease and desist orders, seek and secure an injunction from the~~
32 ~~Superior Courts of this State, in the event he shall find cause to believe that any person is violating the Act, or the rules and regulations~~
33 ~~promulgated by him thereunder, after hearing before him or such person as he designates.~~

34 (10) ~~Revocation or suspension of licensee. The Commissioner is authorized to revoke or suspend a license after giving the licensee a~~
35 ~~reasonable opportunity to be heard, if he shall find that the licensee has failed to pay the annual license fee, or any fee required under the Act,~~
36 ~~or that the licensee has violated any provision of the Act or any rule or regulation promulgated by him under the Act or has violated the terms~~
37 ~~of any cease and desist order entered by him under the provisions of the Act.~~

38 (11) ~~Insurance written in connection with loans under the Act. The Commissioner is authorized to adopt rules and regulations prescribing~~
39 ~~the manner in which insurance may be written on loans under the Act.~~

40 (12) ~~Loan Tax, collection, rules and regulations. The Commissioner is charged with the responsibility of collecting the loan tax provided~~
41 ~~for in O.C.G.A. § 7-3-19. The Commissioner and his representatives have the right to inspect all records of any licensee and the Commissioner is~~
42 ~~authorized to promulgate rules and regulations relative to the enforcement of the law.~~

43 **Rule 120-1-1-.02 Industrial Loan Department Deleted. Due to change in law, regulatory authority will**
44 **transfer to DBF**

45 (1) ~~The Industrial Loan Department is charged with the responsibility of administering the Georgia Industrial Loan Act in a manner which~~
46 ~~will provide protection against unscrupulous and illegal lenders of money. Each application for an Industrial Loan License is given careful~~
47 ~~attention and a complete investigation is made. The Department considers the applicant's moral character, financial stability and the~~
48 ~~convenience and advantage the issuance of the license will provide the community. These services safeguard the citizens and help promote the~~
49 ~~dignity of licensed operators. The Department, through periodic examination, maintains supervision of contracts between borrower and lender.~~

50 (2) ~~The duties of the Department are as prescribed in paragraph 120-1-1-.02(3) through 120-1-1-.02(16) of these Rules and Regulations.~~

51 (3) ~~Administer license qualifications prescribed by law and Chapter 120-1-2 of these Rules and Regulations.~~

- 1 (4) ~~Collect license and investigation fees. All such fees shall be submitted in a form acceptable to the Commissioner. License and~~
2 ~~Investigation fees are as follows:~~
- 3 (a) ~~Annual License fee as specified in the Act.~~
- 4 (b) ~~An investigation fee as specified in the Act shall accompany all applications for licenses. This investigation fee shall not be refunded.~~
- 5 (5) ~~Investigate applicants for licenses. An investigation shall be made to determine that the financial responsibility, character and~~
6 ~~general fitness of the applicant are such as to command the confidence of the public, and that allowing the applicant to engage in business will~~
7 ~~promote the convenience and advantage to the community in which the proposed office is to be located.~~
- 8 (6) ~~Collect monthly tax on interest and require report be submitted by each licensee. A tax on interest is provided by law; such tax is~~
9 ~~payable monthly. Interest and tax thereon may be computed on a cash basis or an accrual basis. A monthly "Loan Tax Report Form" is required~~
10 ~~by this Department. Such monthly report shall be in the office of the Industrial Loan Department by the 20th day of the following month.~~
- 11 (7) ~~Examine licensees periodically. Licensees are examined for the purpose of determining if the licensee is complying with the law by~~
12 ~~charging legal rates; verifying monthly tax reports and quarterly insurance reports; verifying approval of advertising; verifying that there exists~~
13 ~~at least one insurance agent in each office.~~
- 14 (8) ~~Regulate advertising by licensee. Licensees are required by the Act to submit two copies of all proposed advertising to the office of~~
15 ~~the Georgia Industrial Loan Department; the Department will determine if such advertising is in compliance with the Act and Departmental~~
16 ~~regulation; one copy will be stamped either approved or disapproved and retained in the files of this office, the other copy will be returned to~~
17 ~~the licensee indicating the Department's action thereon.~~
- 18 (9) ~~Conduct investigations of complaints received against licensees. Citizens' complaints against licensees are investigated where in the~~
19 ~~judgment of the Commissioner the circumstances and facts warrant an investigation.~~
- 20 (10) ~~Pass upon relocation requests. In those instances in which a licensee requests to relocate within the same business community,~~
21 ~~licensee must show the reasons for such request. In all requests wherein a licensee requests relocation in another business community, such~~
22 ~~licensee shall show the convenience and advantage such relocation will afford to the business community in which the licensee proposed to~~
23 ~~relocate in addition to the other reasons for relocation.~~
- 24 (11) ~~Require annual financial report be made by each licensee. Each licensee shall file an annual financial report with this Department.~~
25 ~~The annual report shall be received in this office no later than April 15 of the following year. If licensee is a subsidiary of a company having~~
26 ~~another licensee within this State, the composite report of all the companies' licensees within this State may be submitted on one form.~~
- 27 (12) ~~Require quarterly report on insurance. Each licensee shall file "Quarterly Insurance Reporting Form" on insurance written in~~
28 ~~connection with loans. Such form shall be completed in full, signed and dated, in accordance with Rule 120-1-1-.03 and shall be received in this~~
29 ~~office no later than the 20th day of the month following the end of the quarter.~~
- 30 (13) ~~Provide for training programs and seminars for licensees. Training programs and seminars are conducted for the purpose of keeping~~
31 ~~licensees abreast of current laws and rules and regulations of this Department.~~
- 32 (14) ~~Provide for formal hearings relevant to denial or revocation of licenses. Notice shall be given and hearing held in accordance with~~
33 ~~the Georgia Industrial Loan Act and Chapter 120-1-2 of these Rules and Regulations.~~
- 34 (15) ~~To approve forms and records maintained by each licensee. Before any form shall be used by a licensee, it shall first have been~~
35 ~~submitted to this Department and have obtained approval. Chapter 120-1-7 of these Rules and Regulations prescribes what books and records~~
36 ~~shall be kept by each licensee.~~
- 37 (16) ~~Require report be submitted on new manager qualifications. Each licensee shall submit information on each person to be hired,~~
38 ~~promoted or transferred to the position of manager. This report shall be on a form obtained from the Industrial Loan Department on request.~~
39 ~~The form shall be submitted by each licensee at the time a new manager is employed.~~
- 40 (17) ~~The Industrial Loan Department is under the direct supervision of a Deputy Industrial Loan Commissioner, and such department has~~
41 ~~been delegated responsibility for administering paragraph 120-1-1-.02(3) through 120-1-1-.02(16), and all inquiries, requests and submissions~~
42 ~~should be directed to the Georgia Industrial Loan Department.~~

43 **Rule 120-1-1-.03 Form of Filings Deleted. Due to change in law, filings will be required through NMLS.**

- 44 (1) ~~Unless otherwise indicated, and to the extent provided, each filing required under this Regulation Chapter is to be made on forms or~~
45 ~~electronic format obtained from the Commissioner.~~
- 46 (2) ~~Forms may be reproduced and the format of the forms may be altered to accommodate manual or automated processing provided~~
47 ~~the content is unchanged and the same information is presented in the same order as in the forms or electronic format obtained from the~~
48 ~~Commissioner.~~
- 49 (3) ~~Any report filed electronically requiring a signature shall contain the electronic signature of the person filing the report, as defined in~~
50 ~~O.C.G.A. § 10-12-3.~~

- 1 (4) ~~_____ The Commissioner may approve a method or methods of electronic filing.~~
- 2 Rule 120-1-1-.04 Severability
- 3 If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and
- 4 the applicability of such provisions to other circumstances shall not be affected thereby.
- 5 Rule 120-1-2-.01 Definitions
- 6 The following words and terms as used in these rules shall have the meaning hereinafter ascribed to them.
- 7 (a) ~~_____ "Commissioner" means the Commissioner of Insurance/Comptroller General ex officio Industrial Loan Commissioner of the State of~~
- 8 ~~Georgia.~~
- 9 (b) ~~_____ "Department" means the Industrial Loan Department of the State of Georgia.~~
- 10 (c) ~~_____ "Hearing officer" means the Commissioner or his or her duly appointed representative, whom the Commissioner deems qualified by~~
- 11 ~~reason of training, experience and competence. In any hearing on a contested case, the Commissioner shall personally preside, unless the~~
- 12 ~~Commissioner refers the case to the Office of State Administrative Hearings, in which case an administrative law judge shall preside.~~
- 13 (d) ~~_____ "Hearing" means an assembly of representatives of the Department and persons and parties, at which all parties at interest are~~
- 14 ~~afforded an opportunity to present testimony, documentary evidence and argument, as to why the proposed action should or should not be~~
- 15 ~~taken.~~
- 16 (e) ~~_____ "Notice of Hearing" means a written statement of the substance of a specific charge alleging violation of any rule or statute to be~~
- 17 ~~considered at a hearing to the person or party affected thereby or of the substance of a proposed rule to be considered which will afford actual~~
- 18 ~~notice to all interested persons. Unless specifically otherwise provided, such notice shall be served in person or by placing in the mails properly~~
- 19 ~~addressed, postage prepaid with return receipt requested (certified). Provided, however, that when the Commissioner certifies for the records~~
- 20 ~~that an emergency exists requiring the holding of a hearing upon notice less than 10 days, a hearing may be held upon less than 10 days notice.~~
- 21 (f) ~~_____ "Party" or "Party at Interest" means each person or agency named or admitted as a party or properly seeking and entitled as a right~~
- 22 ~~to be admitted as a party.~~
- 23 (g) ~~_____ "Person" means an individual, partnership, corporation and association and may extend and be applied to bodies politic and~~
- 24 ~~corporate.~~
- 25 (h) ~~_____ "Rule" means any regulations, standard, or statement of general or particular applicability that implements, interprets or prescribes~~
- 26 ~~law or policy, or describes the organization, procedure, or practice requirements.~~
- 27 (i) ~~_____ "License" means and includes the whole or part of any Department permit, certificate, approval, registration or similar form of~~
- 28 ~~permission with reference to any activity of a continuing nature as provided for by the Georgia Industrial Loan Act.~~
- 29 (j) ~~_____ "Contested Case" means a proceeding, including but not restricted to rate making, price fixing and licensing in which the legal rights,~~
- 30 ~~duties and privileges of a party are required by law to be determined after an opportunity for a hearing.~~
- 31 **Rule 120-1-2-.02 Contested Cases; Notice; Hearing; Record Deleted. Unnecessary due to change in**
- 32 **law. Hearings will be in accordance with the Georgia APA, 50-13-1 et. seq**
- 33 The following procedures shall apply at any hearing in a contested case in which the Commissioner presides:
- 34 (a) ~~_____ In any contested case, all parties shall be afforded an opportunity for a hearing after notice. Unless specifically otherwise provided,~~
- 35 ~~notice may be served personally or by mail.~~
- 36 (b) ~~_____ If the Commissioner finds that the public health, safety or welfare imperatively requires emergency action and incorporates a finding~~
- 37 ~~to that effect, notice shall be given and an emergency hearing proceeded with.~~
- 38 (c) ~~_____ The notice of the proposed action may be in the form of a notice to show cause stating that the proposed action may be taken~~
- 39 ~~unless such person shows cause at a hearing to be held as specified in the notice, why the proposed action should not be taken. The notice for~~
- 40 ~~all hearings shall include the time of the hearing; the place of the hearing, giving street address, floor and designated room, if any; the purpose~~
- 41 ~~of the hearing and where possible, a statement of the individual facts or conduct alleged which warrants the action, in clear and intelligible~~
- 42 ~~language so that the parties may be fully apprised thereof and be able to prepare therefor; a statement of the legal authority and jurisdiction~~
- 43 ~~under which the hearing is to be held; a reference to the particular section of the statute, rule or regulation involved; a short and plain~~
- 44 ~~statement of the matters or issues asserted; and a statement as to the right of the party to subpoena witnesses and documentary evidence~~
- 45 ~~through the Department.~~
- 46 (d) ~~_____ Opportunity shall be afforded the parties to be represented by legal counsel and to respond and present evidence on all the issues~~
- 47 ~~involved.~~

- 1 (e) ——— Unless precluded by law, informal disposition may be made by the Commissioner and the affected party by stipulation, agreed
2 settlement, consent order or default. The validity of any hearing held in accordance with the notice thereof, shall not be affected by failure of
3 any person to attend such hearing or to remain in attendance.
- 4 (f) ——— The Commissioner shall have the authority to administer oaths and affirmations; sign and issue subpoenas; rule upon offers of
5 proof; regulate the course of the hearing; set the time and place for continuances and fix the time for filing briefs; dispose of motions for
6 dismissal for lack of Departmental jurisdiction over the subject matter or parties or for any other grounds; dispose of motions to amend or to
7 intervene; provide for the taking of testimony by deposition or interrogatory; and reprimand or exclude from the hearing any person for any
8 indecorous or improper conduct committed at or during a hearing. If unable to obtain obedience to his or her reasonable directions, he or she
9 may adjourn the hearing.
- 10 (g) ——— The Commissioner shall designate the place for holding such hearing. In considering the place for the conduct of the hearing, due
11 regard should be given to the convenience and necessity of the parties and their representatives. The hearing will be conducted in office or
12 chamber space separated from general office facilities.
- 13 (h) ——— The hearing shall be opened promptly at the time fixed in the "notice of hearing." A brief summary of the law involved, the purpose
14 of the hearing and the issues involved will be entered into the record at the inception of the hearing.
- 15 (i) ——— In all hearings involving adversary proceedings, the taking of testimony shall be under oath.
- 16 (j) ——— The order of proof in the conduct of a hearing should be somewhat flexible. Generally the following procedures will be adhered to:
- 17 1. ——— the person or party asserting the claim or making the charge should examine his witnesses first;
- 18 2. ——— the opposing party and his witnesses should then be heard;
- 19 3. ——— the giving of testimony by each respective party and his witnesses is subject to appropriate cross examination;
- 20 4. ——— the Commissioner may call or recall a witness as the exigencies of a case dictate.
- 21 (k) ——— There will be no time requirement for a party to complete his case. The hearing is not considered complete until both sides of the
22 controversy have completed presentation of evidence and argument.
- 23 (l) ——— The rules of evidence as applied in the trial of civil non-jury cases in the Superior Courts of Georgia shall be followed; however, when
24 necessary to ascertain facts not reasonably susceptible of proof thereunder, evidence not admissible thereunder may be admitted except
25 where precluded by statute if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.
- 26 (m) ——— The rules of privilege recognized by law shall be given effect.
- 27 (n) ——— Objections to evidentiary offers may be made and shall be noted in the record.
- 28 (o) ——— When a hearing will be expedited and the interest of the parties will not be prejudiced substantially, any part of the evidence may be
29 received in written form. Evidence in the form of affidavits shall be admissible into evidence upon a hearing provided:
- 30 1. ——— Notice of intention to use affidavit or counter affidavit is given to a respondent, adversary or opposing counsel at least 15 days prior
31 to the date set for hearing;
- 32 2. ——— The notice provided for in (a) above sets forth the name and addresses of all persons from whom affidavits will be taken;
- 33 3. ——— Original affidavits from each person testifying by affidavit are filed with the Commissioner and a copy thereof sent to respondent,
34 adversary or opposing counsel not less than 10 days prior to the date set for hearing;
- 35 4. ——— No objection, legally sufficient under any provisions of the law, is made to the introduction of such affidavits. Objection that it is a
36 denial of the right to cross-examine shall be sufficient. Objections shall state the name or names of those persons the use of whose affidavits
37 are objected to;
- 38 5. ——— Objections to the use of affidavits shall be made at least 5 days prior to the date set for hearing to provide adequate time for
39 obtaining and serving a subpoena;
- 40 6. ——— The body of such affidavit includes a statement that the affiant is aware of the use that may be made of such affidavit;
- 41 Example: "Affiant makes this statement for use in a proceeding before the Industrial Loan Commissioner for the purpose of which is to
42 determine if John Doe is in violation of the Industrial Loan Act or Rules and Regulations adopted and promulgated thereunder."
- 43 7. ——— Such affidavit is legally sufficient as an affidavit. Objections to the form of an affidavit may be made at the hearing.
- 44 8. ——— Notice is given that subpoenas may be obtained by applying to the Commissioner and that subpoenas shall be issued without
45 discrimination between public and private parties.
- 46 9. ——— Upon not less than five days notice, the witness may be cross-examined by deposition.

1 (p) — A record of the hearing shall be kept and shall include all pleadings, motions and intermediate rulings; a summary of the oral
2 testimony plus all other evidence received or considered except that all proceedings or any part thereof shall be transcribed or recorded upon
3 request of any party; a statement of matters officially noticed; questions and offers of proof and rulings thereon; proposed findings and
4 exceptions; any decision, opinion or report by the Commissioner; all staff memoranda or data submitted to the Commissioner or members of
5 the Department in connection with their consideration of the case.

6 (q) — Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

7 (r) — The Commissioner may adjourn any hearing from time to time and from place to place without other notice of the adjourned
8 hearing than announcement thereof at the hearing.

9 (s) — The Commissioner shall render his or her final decision, in any matter in which he or she personally presided over the hearing, within
10 30 days after the record of the hearing is closed. The Commissioner's final decision should be expressed in clear and intelligible language so that
11 all parties will have no doubts as to the outcome of the case or of the action required to be taken thereon.

12 **Rule 120-1-2-.03 Intervention Deleted. Intervention by third parties not specifically authorized under**
13 **the Act.**

14 (1) — Upon timely application any person shall be permitted to intervene in a contested case when a statute confers an unconditional
15 right to intervene or when the representation of applicant's interest is or may be inadequate.

16 (2) — Upon timely application any person may be permitted to intervene when a statute confers a conditional right to intervene or when
17 the applicant's claim or defense and the main action have a question of law or fact in common.

18 (3) — In exercising his discretion, the Hearing Examiner shall consider whether the intervention will unduly delay or prejudice the
19 adjudication of the rights of existing parties.

20 **Rule 120-1-2-.04 Declaratory Rulings**

21 (1) — An interested person may, by petition setting forth all the facts, obtain declaratory rulings by the Commissioner as to the
22 applicability of any rule or order of the Commissioner.

23 (2) — An interested person may, by petition setting forth all the facts, obtain declaratory rulings by the Commissioner as to the
24 applicability of any statutory provision.

25 (3) — All such petitions requesting declaratory rulings shall set forth actual facts or situations. The Commissioner will make no ruling on
26 untrue or hypothetical facts.

27 (4) — All rulings hereunder shall be contingent upon the truthfulness of the facts set forth in the petition requesting a declaratory ruling.

28 (5) — Within thirty (30) days of the date of filing such petition, the Commissioner will rule thereon, provided, however the Commissioner
29 may by order extend such thirty (30) day period if he recites in such extension order the reason therefor.

30 (6) — The date of filing shall be the date received by the Commissioner.

31 (7) — The date of filing shall be promptly affixed to the petition.

32 **Rule 120-1-2-.05 Petitions**

33 (1) — All petitions referred to herein shall be addressed to the Commissioner; signed by the petitioner or his counsel; and shall plainly,
34 fully and distinctly set forth the basis of the petition, and the action or relief demanded.

35 (2) — The Attorney General shall be served with a copy of all such petitions.

36 **Rule 120-1-2-.06 Procedure for the Adoption of Regulations Deleted. Unnecessary, as the Department**
37 **adopts rules pursuant to the Georgia APA**

38 (1) — Prior to the adoption, amendment or repeal of any regulation, other than interpretative regulations or general statement of policy,
39 the Commissioner shall give notice of his intended action by advertising at least once in one newspaper in Atlanta, Georgia, having general
40 statewide circulation not less than 30 days prior to hearing thereon. The notice shall comply with the requirements of the Georgia
41 Administrative Procedure Act, Article 1 of Chapter 13 of Title 50 of the Official Code of Georgia Annotated. The notice shall also include the
42 exact date on which the Department shall consider the adoption of the regulation and the time when, the place where and the manner in
43 which interested persons may present their views thereon.

44 (a) — The notice shall be mailed to all persons who have requested in writing that they be placed upon a mailing list, which shall be
45 maintained by the Department for advance notice of its rule making proceedings and who have tendered the actual cost of such mailing as
46 from time to time estimated by the Commissioner.

- 1 (b) ~~_____ All interested persons shall be afforded reasonable opportunity to submit data, views or arguments orally or in writing.~~
- 2 (c) ~~_____ In the case of substantive rules, opportunity for oral hearing must be granted if requested by 25 persons who will be directly~~
 3 ~~affected by the proposed regulation; or if requested by a governmental subdivision; or if requested by an association having not less than 25~~
 4 ~~members.~~
- 5 (d) ~~_____ The Commissioner shall consider fully all written and oral submissions respecting the proposed regulation.~~
- 6 (e) ~~_____ Upon adoption of a regulation, the Commissioner, if requested to do so by an interested person, either prior to adoption or within~~
 7 ~~30 days thereafter, shall issue a concise statement of a principal reason for and against its adoption, and incorporate therein his reason for~~
 8 ~~overruling the consideration urged against its adoption.~~
- 9 (2) ~~_____ If the Commissioner finds that an imminent peril to the public health, safety or welfare (including but not limited to summary~~
 10 ~~processed such as quarantines, contrabands, seizures and the like authorized by law without notice), requires adoption of a regulation upon~~
 11 ~~fewer than 30 days notice and states in writing his reasons for that finding, he may proceed without prior notice or hearing or upon any~~
 12 ~~abbreviated notice and hearing that he finds practicable to adopt an emergency regulation. Such regulation may be effective for a period of not~~
 13 ~~longer than 120 days but the adoption of an identical regulation under the provisions of subsection (1) is not precluded.~~
- 14 (3) ~~_____ An interested person may petition the Commission requesting the promulgation, amendment, or repeal of a rule. Within 30 days~~
 15 ~~after submission of such petition, the Commissioner either shall deny the petition in writing stating his reasons for the denial or shall initiate~~
 16 ~~rule making proceedings.~~
- 17 (4) ~~_____ The Commissioner shall affix his signature and the date to each regulation, and when so subscribed and dated such regulation shall~~
 18 ~~be deemed fully and completely adopted and promulgated.~~

19 **Rule 120-1-2-.07 Procedures for the Licensing Process ~~Application process moved to 80-14-4-.04~~**
 20 **~~regarding use of NMLS and 80-5-1-.02 regarding fees. Convenience and advantage requirements~~**
 21 **~~moved to 80-14-1.01. Requirement to publish notice of filing of license application deleted to provide~~**
 22 **~~regulatory relief. Remaining provisions, including change in control and net worth requirements,~~**
 23 **~~deleted due to changes in law.~~**

- 24 (1) ~~_____ All corporate applicants shall truthfully and completely supply and insert all information requested on the "Corporate Application for~~
 25 ~~Industrial Loan License" and the "Convenience and Advantage Documentation."~~
- 26 (2) ~~_____ All partnership applicants shall truthfully and completely supply and insert all information requested on the "Partnership Application~~
 27 ~~for Industrial Loan License" and the "Convenience and Advantage Documentation."~~
- 28 (3) ~~_____ All individual proprietorship applicants shall truthfully and completely supply and insert all information requested on the "Individual~~
 29 ~~Proprietorship Application for Industrial Loan License" and the "Convenience and Advantage Documentation."~~
- 30 (4) ~~_____ All applications shall be in writing and under oath; shall be on forms prescribed by the Commissioner; shall give the location from~~
 31 ~~which the business is to be conducted; shall give the names of the persons connected with the business and all questions of the application~~
 32 ~~shall be answered.~~
- 33 (5) ~~_____ Applications are of three types due to the three possible business entities. Applicant shall select the application by specifying the~~
 34 ~~business entity proposed for licensing.~~
- 35 (6) ~~_____ Corporate applicants shall be incorporated at the time the application is submitted to this Department.~~
- 36 (7) ~~_____ Before the filing of an application and the payment of fees, the applicant shall cause an advertisement to be placed one time in the~~
 37 ~~legal organ of the county in which the business is to be located. The advertisement shall run within thirty (30) days of the filing date of the~~
 38 ~~application and shall be in a form substantially as follows:~~

39 STATE OF GEORGIA

40 _____ COUNTY

41 NOTICE OF APPLICATION FOR

42 LICENSE TO MAKE SMALL LOANS

43 The undersigned hereby gives notice that an application for a license to engage in the business of making loans pursuant to the Georgia
 44 Industrial Loan Act will be filed in my name within thirty (30) days of the date of this notice in the Office of the Georgia Industrial Loan
 45 Commissioner. The address of the proposed place of business is (street and city address).

46 _____

47 Applicant

1 _____
2 Principal Residence Address

3 Proof of advertisement as published shall be filed with the Office of the Georgia Industrial Loan Commissioner and made a part of the
4 application before the application may be filed. This paragraph shall not apply to license applications filed pursuant to a purchase of assets
5 under O.C.G.A. Section 7-3-9(d).

6 (8) _____ The application shall be accompanied by two checks payable to the Commissioner, one in payment of the annual license fee and the
7 other in payment of the investigation fee. The license fee is in the amount specified in the Act. The license fee is returned if the application for
8 license is denied; the investigation fee shall not be refunded.

9 (9) _____ Applicants for initial licenses shall submit with such application, information which establishes that if the applicant is allowed to
10 engage in business, the convenience and advantage of the community in which the proposed office is to be located will be promoted. The
11 convenience and advantage the proposed office will offer to the community is judged primarily by the answers to the following questions:

12 (a) _____ Will the public benefit if a license is issued? Explain.

13 (b) _____ Is the public presently offered this service? Estimate the number of people not presently served.

14 (c) _____ Give statistics offering proof relative to the growth of the area in relation to:

15 1. _____ Population

16 2. _____ Retail Stores

17 3. _____ Industry

18 4. _____ Industry Payroll

19 5. _____ Retail Sales

20 6. _____ Income per capita.

21 (d) _____ Project the growth of the proposed office for the first three years of operation in number of accounts and outstanding amount.
22 Indicate the source of customers.

23 (e) _____ Present a diagram of the immediate area indicating the location of any operating industrial loan licensees, sales finance companies,
24 banking institutions, federal savings and loan associations, public financial institutions, and the location of the proposed office. Give statistics
25 relative to the growth of these institutions and their loans outstanding.

26 (f) _____ Add other information which is considered relevant to the issuance of a license.

27 (10) _____ Applicants for an Industrial Loan License by virtue of the purchase of substantially all the assets of an existing licensee are not
28 required to show that the operation of such business will promote the convenience and advantage of the community. Such applicants shall
29 attach to the application a copy of the contract agreed to by the seller and purchaser. If the contract does not contain the number of accounts
30 being purchased, this information shall be supplied. The license and investigation fees prescribed in the Act shall accompany all such
31 applications.

32 (11) _____ When an application is received by this Department, it is reviewed to determine if complete. A letter is sent to confirm receipt or, if
33 necessary, to request additional information. When the application is adjudged complete, the investigation by this Department is begun. The
34 investigation is restricted to determining:

35 (a) _____ That the financial responsibility, character, and general fitness of the applicant, are such as to command the confidence of the
36 public, to warrant a belief that the business will not be operated unfairly or unlawfully;

37 (b) _____ That allowing the applicant to engage in business will promote the convenience and advantage of the community;

38 (c) _____ That applicant has a minimum of \$75,000.00 in net worth, required to begin business.

39 (12) _____ If the Commissioner has any doubt of the applicant meeting the standards required for licensing, he or she shall issue a proposed
40 order to be effective upon a later date without a hearing, unless any person subject to the order requests a hearing within ten days after
41 receipt of the proposed order. Failure to make the request shall constitute a waiver of the right to a hearing. Such hearing shall in all respects
42 conform to applicable regulations. The cost of such hearing and taking down and writing up a transcript of the evidence may, in the discretion
43 of the Commissioner, be charged to the person seeking such license.

44 (13) _____ The Commissioner on review of the information submitted by the applicant and the results of the Department's investigation, shall
45 grant or deny any application for a license within sixty (60) days from the date the application was filed with this Department.

1 (14) Upon the issuance of a new license, the fees are submitted to the Fiscal Section of the Commissioner of Insurance/Comptroller
2 General's Office. A copy of the license is mailed to the applicant or his representative and the application is filed.

3 **Rule 120-1-2-.08 Submitting Advertising for Approval Moved to [80-14-1-.04](#). Deleted requirement to**
4 **obtain approval of advertisements to provide regulatory relief and efficiency**

5 (1) No licensee shall advertise, display, distribute or broadcast in any manner whatsoever any false, misleading or deceptive statement
6 or representation with regard to rates, terms or conditions for loans subject to the provisions of the Georgia Industrial Loan Act.

7 (2) All advertising shall be approved by the office of the Industrial Loan Commissioner. Two copies of all proposed advertising shall be
8 submitted to this Department and an approved copy, so designated, will be returned to the licensee and the other copy retained in the
9 Department's file. If a licensee fails to receive an approval or disapproval within 45 days from the date advertising is submitted, the advertising
10 matter shall be deemed approved. All advertising matter submitted for approval shall show the time, and place of release and the advertising
11 medium to be used.

12 (3) All licensees shall maintain a file of all advertising approved for such licensee. If licensee is a branch office of a company having more
13 than one branch office within the State of Georgia, licensee shall have a copy of all advertising in the office, however, the copy of such
14 advertising marked approved by this Department may be filed elsewhere.

15 (4) All approved advertising shall be maintained by the licensee for a period of one year.

16 **Rule 120-1-2-.09 Request to Relocate Licensee's Place of Business Moved to [80-14-1-.01](#).**

17 (1) All requests to relocate shall be submitted on a "Licensee Request to Relocate." All licensees requesting relocation shall fully and
18 truthfully supply and insert all information necessary to complete the relevant portion or portions of such form. All licensees requesting
19 relocation to another business community are required to pay an investigation fee as specified in the act.

20 (2) An investigation shall be conducted for the purpose of verifying the information submitted. A move from one site to another within
21 the same business community will not necessitate proof by the applicant that relocation will afford convenience and advantage to the
22 community. However, to relocate outside a business community, applicant is required to establish on the application and with supplemental
23 information, proof that to grant the licensee permission to operate in this new location will afford convenience and advantage to the
24 community.

25 (3) The request shall then be granted or denied and the applicant notified. When a request is granted, the license shall be submitted to
26 this Department by the licensee for appropriate address change.

27 **Rule 120-1-2-.10 Industrial Loan License Renewal Renewal processes moved to [80-14-4-.04](#) regarding**
28 **use of NMLS and [80-5-1-.02](#) regarding fees.**

29 (1) All applicants for renewal shall apply on a form or electronic format obtained from the Commissioner. Each applicant for renewal of
30 an Industrial Loan License shall fully and truthfully supply and insert all information necessary to complete this form. Applicant shall subscribe
31 such form under oath as to the truthfulness and correctness of all information supplied by applicant.

32 (2) All applicants for renewal shall submit payment in the amount for the annual license fee with each such application. Checks, drafts
33 and other bills of exchange shall be payable to the Commissioner. Applications for renewal and annual license fees shall be filed with this
34 Department no later than December 20th of the year preceding the year for which the license is to be issued. All fees shall be submitted in a
35 form acceptable to the Commissioner.

36 (3) This Department checks each application against a roster of licensees to assure correctness.

37 (4) Licenses expire on December 31 of each license year.

38 **Rule 120-1-2-.11 Annual Financial Report Deleted due to change in law. [80-14-4-.04](#) requires a**
39 **quarterly loan report to align with quarterly reporting requirements for other non-depository entities**
40 **regulated by the Department.**

41 (1) All licensees shall fully and truthfully supply and insert all information necessary to complete an "Annual Georgia Industrial Loan
42 Report." If a company has more than one licensee doing business in the State of Georgia, such company may elect to file such form as a
43 composite of all its business activities in Georgia and a "Short Form Annual Georgia Industrial Loan Report," to reflect the business activity of
44 each licensee owned by such company. Forms and instructions shall be obtained from the Department as provided in Rule 120-1-2-.18.

45 (2) The report is principally a financial report giving the balance sheet at December 31 and the profit and loss statement for the
46 calendar year. However, in some instances the profit and loss statements are for periods of less than one year. Other schedules are included in
47 the report and must be completed.

1 (3) ——— The information submitted in these reports is summarized and made a part of the annual report maintained by this office. All
2 statistics contained in these reports are checked for mechanical accuracy and if incorrect, the report is returned to the licensee for correction.

3 (4) ——— The annual report shall be filed with this Department no later than April 15 of the following year. Any person who fails to comply
4 with the requirements of this Section shall be subject to such penalties as may be appropriate under Chapter 3 of Title 7 of the Official Code of
5 Georgia Annotated and the Rules and Regulations promulgated thereunder.

6 **Rule 120-1-2-.12 Monthly Loan Tax Reports Moved to [80-5-1-.08](#) and frequency of reporting reduced**
7 **to provide regulatory relief.**

8 (1) ——— Monthly Loan Tax Report forms are provided upon request. Each licensee shall fully and truthfully supply and insert all information
9 necessary to complete such form, and shall sign and date such form. All "Loan Tax Report Forms" and payment due thereon shall be filed with
10 this Department no later than the 20th day of the succeeding month.

11 (2) ——— A penalty as provided by law shall be collected for Loan Tax Reports filed after the due date.

12 (3) ——— A penalty as provided by law shall be collected for each fraudulent Loan Tax Report.

13 (4) ——— If loans receivable are sold by a licensee reporting on the accrual basis to a licensee reporting on a cash basis, the seller must show
14 this transaction on the report, the accounts being sold, the interest involved and pay the tax due thereon.

15 **Rule 120-1-2-.13 Submission and Disposition of Complaints Deleted. The Department does not**
16 **directly investigate or resolve complaints on behalf of consumers for any of its regulated entities. The**
17 **Department reviews complaint information in the regulatory process and provides consumers with**
18 **contacts and resources as appropriate.**

19 (1) ——— To provide protection against illegal lenders and unscrupulous tactics of licensees, this Department offers complaint service to
20 citizens who desire an investigation in a particular case. Complaints are presented to this Department by: personal visit, telephone and mail.
21 The person making the complaint shall submit all evidence pertaining to the case. From an evaluation of the information assembled, a course of
22 action is plotted and an investigation instituted where warranted in the judgment of the Commissioner. On investigation a copy of the account
23 card shall be obtained and submitted to this Department along with other relevant material.

24 **Rule 120-1-2-.14 Examination of Licensee's Books and Records Deleted due to change in law.**
25 **Examinations are addressed in [80-14-2-.01](#).**

26 (1) ——— In order to discover violations of the Georgia Industrial Loan Act, the Commissioner or his representative has been given the
27 authority by the Industrial Loan Act to examine the records of any licensee, any person who advertises, solicits, or holds himself out as willing to
28 make loans pursuant to said Act, or any person believed to be violating or about to violate such Act.

29 (2) ——— The procedure for such examinations includes interviews of witnesses and review of books, accounts, papers and records. Witnesses
30 and documents may be subpoenaed by the Commissioner. The Commissioner may also administer oaths, hold hearings and take testimony
31 under oath in conducting examinations and hearings. The cost of any examination, investigation or hearing in the discretion of the
32 Commissioner may be charged to the licensee or person examined subject to review by the Superior Court. The examination, investigations or
33 hearings may be conducted at the Office of the Commissioner of Insurance/Comptroller General, or in the county wherein the business of the
34 licensee is located or where the person is engaging in the business of making loans, or elsewhere, as directed by the Commissioner. The
35 Commissioner is authorized to seek the granting of an injunction after an examination and hearing of a person believed to be violating the Act.

36 (3) ——— A supervisor examiner schedules the examination of offices operating under the Act from his records of licensees. He establishes the
37 schedule for an examiner on any given day. Examination includes the following:

38 (a) ——— Examination of account cards, note contracts and daily reports to verify that correct interest, fees, insurance premiums, recording
39 fees, attorney costs, repossession costs or any other charges allowed under the Act are correct and not in violation of the Act; that only those
40 charges allowed by the Act are included.

41 (b) ——— Verifies monthly tax and quarterly insurance reports.

42 (c) ——— Verifies approval of advertising.

43 (d) ——— Verifies that an authorized insurance agent is writing and soliciting any insurance included in the contracts.

44 (e) ——— Verifies that records, forms, and ledgers maintained by the licensee are in compliance with the Act and rules and regulations.

45 (f) ——— Reviews any discrepancies found with the manager, or other representative of the company and where overcharges occur, he lists
46 these on a report and requests the manager to refund to the customer. This report will be sent to the Department and furnished to the
47 company.

1 (g) — The reports are reviewed weekly by the Supervisor to determine if re-examinations are necessary. If it is determined to re-examine a
2 licensee, the manager is notified. From these examinations and re-examinations, it may be determined by the Commissioner that a hearing is
3 necessary because of violations discovered. If an examination reveals overcharges or other irregularities which, in the discretion of the
4 Commissioner, warrants a re-examination, the cost of such re-examination, to be determined by the Commissioner, shall be charged to the
5 licensee.

6 (4) — Unauthorized persons who advertise, solicit or hold themselves out as willing to make industrial loans and persons believed to be
7 violating or about to violate the Act are investigated when this Department is requested to assist in the investigation. Names of borrowers are
8 obtained and contacted. An affidavit is obtained from borrowers which gives conditions of the contract signed by the borrower. These affidavits
9 are furnished the solicitor of the county or city court. These affidavits form the basis on which court action will be initiated.

10 **Rule 120-1-2-.15 Changes of Names and Business Entities Deleted due to change in law. Applications**
11 **for change in control of a licensee are addressed in [80-5-1.02\(5\)](#) and updating licensee information in**
12 **[NMLS is addressed in 80-14-4-.04.](#)**

13 (1) — Licensees may change their names by attaching the license to a letter which gives the name now used and the name desired over
14 the signature of the officer authorized to act. This Department will change the license and its records and return the license.

15 (2) — Any change in business entities that results in a change of control of the licensee, whether by stock sale, purchase of assets, or any
16 other type of transaction, will be deemed as a purchase of substantially all of the assets of a licensee. For purposes of this Regulation, 10
17 percent or more of the voting shares of the corporation, 10 percent or more of the ownership interest in a partnership, or any change in the
18 ownership of a proprietorship, shall be presumed to amount to a controlling interest. The purchaser shall be required to file a license
19 application pursuant to O.C.G.A. § 7-3-9(d), in addition to complying with the following requirements.

20 (3) — This Department foresees only three business entity changes.

21 (a) — Changing from a proprietorship to a partnership or corporation. The proprietor shall write a letter over his signature informing this
22 Department of the change, giving the names of partners, or officers and directors if changing to a corporation.

23 (b) — Changing from a partnership to a proprietorship, increasing the number of partners, or forming a corporation. A letter of agreement
24 between the partners shall be submitted containing signatures of present partners. If proprietorship is the successor, give name of proprietor; if
25 a new partnership is formed, give names of partners; if corporation is formed, give names of officers and directors.

26 (c) — Changing from a corporation to a partnership or proprietorship or a sale or liquidation of all shares of stock. The president of the
27 corporation shall give notice to the Commissioner of a proposed change of the business entity to a partnership or proprietorship at least ten
28 (10) days before final transfer and give the name of the proprietor or the names of partners. Excerpts of the stockholders or board of directors
29 meeting approving this transaction shall be attached. Notice of sale of all stock or a merger shall be given the Commissioner and excerpts from
30 the stockholders or board of directors meeting which approved this transaction shall be attached. Names of the new officers and directors shall
31 be included and submitted herewith.

32 **Rule 120-1-2-.16 Quarterly Insurance Report Deleted. Any insurance-related requirements are the**
33 **purview of the Insurance Commissioner.**

34 A "Quarterly Insurance Report Form" shall be filed with the Commissioner no later than the 20th day of the month after the quarters ending
35 March 31, June 30, September 30 and December 31. Such form shall indicate the name of the licensee; business address of such licensee; the
36 date the quarter ended, number of loans; the amount of loans; insurance premiums charged; refunds; net premiums; number of claims paid;
37 total amount of claims paid; percent of claims paid to net premiums; and name of insurance company as to Life, Accident and Sickness, and
38 Household Goods Fire Insurance. Each licensee shall fully and truthfully supply and insert all information necessary to complete such form, and
39 shall sign a certification as to the truthfulness of such form and date same.

40 **Rule 120-1-2-.17 Manager's Qualification Report Deleted. Department approval of location managers**
41 **is addressed in [80-14-1.02.](#)**

42 (1) — Each licensee shall report on a form obtained from the Commissioner any change in management. Two (2) copies of the report shall
43 be submitted at the time a change of manager occurs, regardless of whether the position is of a temporary or permanent nature.

44 (2) — The report shall be in writing and under oath; shall be on forms prescribed by the Commissioner, and shall be signed by the person
45 employing the manager; and all questions shall be answered.

46 (3) — The report form may be obtained from the Georgia Industrial Loan Department, as provided in Rule 120-1-2-.18.

47 (4) — No licensee shall appoint as a manager an individual having less than one year's experience under the Georgia Industrial Loan Act,
48 provided, however, the Commissioner may waive this requirement upon successful completion of a training course approved by him.

49 (5) — No licensee shall appoint as a manager any individual who has been convicted of a felony.

1 (6) ~~Each licensee shall secure a character and credit report, from a company specializing in such reports, as to the character and credit~~
2 ~~of all persons proposed for employment as manager of such licensee.~~

3 (7) ~~For purposes of the character and credit report provided for in Section (6), each licensee shall be considered separate regardless of~~
4 ~~ownership, association or affiliation.~~

5 (8) ~~Each licensee or person employing a manager shall submit an affidavit to the Commissioner on a form obtained from the~~
6 ~~Commissioner as to each manager in fact employed by such licensee, to the effect that such licensee or employer has read and is familiar with~~
7 ~~the manager's character and credit report and shall indicate the effective date of such new manager's employment.~~

8 (9) ~~Each licensee or person employing the manager shall indicate in the affidavit provided for in Section (8), that the person appointed~~
9 ~~as manager of such licensee meets the requirements of Section (5) hereof by virtue of that person's never having been convicted of a felony.~~

10 (10) ~~Each licensee or person employing the manager shall indicate in the affidavit provided for in Section (8) wherein such manager~~
11 ~~meets the requirements of Section (4) hereof, and shall disclose how, when and where such proposed manager became qualified under such~~
12 ~~Section (4).~~

13 **Rule 120-1-2-.18 Form of Filings Deleted. Due to change in law, filings will be required through NMLS.**

14 (1) ~~Unless otherwise indicated, and to the extent provided, each filing required under this Regulation Chapter is to be made on forms or~~
15 ~~electronic format obtained from the Commissioner.~~

16 (2) ~~Forms may be reproduced and the format of the forms may be altered to accommodate manual or automated processing provided~~
17 ~~the content is unchanged and the same information is presented in the same order as in the forms or electronic format obtained from the~~
18 ~~Commissioner.~~

19 (3) ~~Any form filed electronically requiring a signature shall contain the electronic signature of the person filing the form, as defined in~~
20 ~~O.C.G.A. § 10-12-3.~~

21 (4) ~~The Commissioner may approve a method or methods of electronic filing.~~

22 ~~Rule 120-1-2-.19 Severability~~

23 ~~If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and~~
24 ~~the applicability of such provisions to other circumstances shall not be affected thereby.~~

25 ~~Rule 120-1-3-.01 Definition of "Act"~~

26 ~~The word "Act" in any of its various uses herein, shall mean the "Georgia Industrial Loan Act" (Acts 1955, pp. 431, 432).~~

27 ~~Rule 120-1-3-.02 Definition of "Loans Within the Act"~~

28 ~~Whether a loan transaction falls within the provisions of the Georgia Industrial Loan Act as amended, is not necessarily determined by the face~~
29 ~~amount of the note but by the amount advanced, in cash or otherwise, including insurance premiums, but excluding interest and fees which~~
30 ~~may be added to arrive at the face amount of the note. The transaction shall be deemed within the Industrial Loan Act if the amount so~~
31 ~~advanced, including insurance premiums but excluding interest and other fees, is a loan as defined in the Act.~~

32 ~~Rule 120-1-3-.03 Definition of "Financial Responsibility"~~

33 ~~An applicant shall not be deemed to meet the "financial responsibility" provision of the Act unless such applicant possesses net assets of not~~
34 ~~less than \$75,000.00.~~

35 **Rule 120-1-3-.04 Definition of "Convenience and Advantage" Deleted. Convenience and advantage** 36 **are addressed in [80-14-1.01](#).**

37 ~~Each applicant for an initial license and each licensee requesting relocation in another business community shall establish the "convenience and~~
38 ~~advantage" the license will afford to the community by presenting the information called for in paragraph 120-1-2-.07(9). The Commissioner~~
39 ~~shall cause an investigation to be made to determine the correctness and truthfulness of the information so presented.~~

40 ~~Rule 120-1-3-.05 Definition of "Character and General Fitness"~~

41 ~~Applicants for licensing and licensee shall possess and thereafter maintain such financial responsibility, character and general fitness as will~~
42 ~~command the confidence of the public and warrant a belief that the business will not be operated unfairly or unlawfully.~~

43 **Rule 120-1-3-.06 Sale of Assets Deleted due to change in law. Applications for change in control of a** 44 **licensee are addressed in [80-5-1.02\(5\)](#)**

45 ~~A licensee shall promptly notify the Commissioner in writing of the sale of substantially all the assets used in such licensee's office.~~

1 Rule 120-1-3-.07 Severability
2 If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and
3 the applicability of such provisions to other circumstances shall not be affected thereby.

4 **Rule 120-1-4-.01 Experience Deleted. Department approval of location managers is addressed in [80-](#)**
5 **[14-1.02](#).**

6 No licensee shall appoint as a manager an individual having less than one years experience under the Georgia Industrial Loan Act, provided,
7 however, the Commissioner may waive this requirement upon successful completion of a training course approved by him.

8 Rule 120-1-4-.02 Felons
9 No licensee shall appoint as a manager any individual who has been convicted of a felony.

10 Rule 120-1-4-.03 Credit Report
11 Each licensee shall secure a character and credit report from a company specializing in such reports, as to the character and credit of all persons
12 proposed for employment as manager of such licensee.

13 Rule 120-1-4-.04 Each Licensee Separate for Purpose of Credit Report
14 For purposes of the character and credit report provided for in Rule 120-1-4-.03, each licensee shall be considered separate regardless of
15 ownership, association, or affiliation.

16 Rule 120-1-4-.05 Affidavit of Familiarity with Credit Report
17 Each licensee or person employing a manager shall submit an affidavit to the Commissioner on a form obtained from the Commissioner as to
18 each manager in fact employed by such licensee, to the effect that such manager or employer has read and is familiar with the manager's
19 character and credit report and shall indicate the effective date of such new manager's employment.

20 Rule 120-1-4-.06 Statement Manager Has Not been Convicted of a Felony
21 Each licensee or person employing the manager shall indicate in the affidavit provided for in Rule 120-1-4-.05, that the person appointed as
22 manager of such licensee meets the requirements of Rule 120-1-4-.02 hereof by virtue of his never having been convicted of a felony.

23 Rule 120-1-4-.07 Statement Manager Meets Experience Requirements
24 Each licensee or person employing the manager shall indicate in the affidavit provided for in Rule 120-1-4-.05 wherein such manager meets the
25 requirements of Rule 120-1-4-.01 hereof, and shall disclose how, when and where such proposed manager became qualified under such Rule
26 120-1-4-.01.

27 Rule 120-1-4-.08 Severability
28 If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and
29 the applicability of such provisions to other circumstances shall not be affected thereby.

30 **Rule 120-1-5-.01 Application for License Deleted. Due to change in law, filings will be required**
31 **through NMLS.**

32 Application shall be on a form obtained from the Commissioner for corporate applicants, partnership applicants, or individual applicants. The
33 investigation fee provided for in the Act, shall not be refunded.

34 Rule 120-1-5-.02 Severability
35 If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and
36 the applicability of such provisions to other circumstances shall not be affected thereby.

37 **Rule 120-1-6-.01 Making Loans Moved to [80-14-1-.01](#) regarding Department approval of locations.**

38 All loans shall be made at the place named or designated in the license, except where authorized in writing by the Commissioner to do
39 otherwise.

40 Rule 120-1-6-.02 Place of Business, Times and Days Open for Business
41 The place of business designated in the license shall be open to receive payments from borrowers during customary hours of each business day;
42 Sundays and holidays excepted. Normal business practices for Saturdays shall continue except when holidays fall on Saturday a licensee may
43 deviate.

1 **Rule 120-1-6-.03 Changing Place of Business, Form Moved to [80-14-1-.01](#) regarding Department**
2 **approval of locations.**

3 All licensees desiring to relocate shall notify the Commissioner by filing a form obtained from the Commissioner. Such forms shall be completed
4 in every detail applicable to the licensee making the filing.

5 **Rule 120-1-6-.04 Severability**

6 If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and
7 the applicability of such provisions to other circumstances shall not be affected thereby.

8 **Rule 120-1-7-.01 Forms Deleted. To provide regulatory relief and efficiency, approval of forms is not**
9 **required unless expressly provided in Chapter 80-14.**

10 All licensees shall submit to the Commissioner, for approval, specimens of all account cards, daily cash journals, and note contracts proposed
11 for use in Georgia offices. Any change in original forms shall be submitted to the Commissioner for approval before adoption or use. If the
12 licensee fails to hear from the Commissioner as to the approval or disapproval of such forms within 45 days from the date it is submitted to the
13 Commissioner for approval, it shall be deemed to be approved.

14 **Rule 120-1-7-.02 Books and Records, Where Kept Moved to and consolidated in [80-14-2.02](#) regarding**
15 **minimum books and records, [80-14-2-.03](#) regarding installment loan transaction journal, and [80-14-2-](#)**
16 **[.04](#) regarding installment loan files.**

17 (1) Each licensee shall keep the following books and accounting records at the place of business designated in the license. Any machine
18 or electronic accounting, data processing, or computer software used must be capable of providing all information required under the Act and
19 these Rules and Regulations in a format which has the approval of this Department.

20 (2) Loan Register. Every new loan shall be recorded in this register which shall be kept currently posted, in consecutive numerical order
21 showing the following information:

22 (a) Number of loan.

23 (b) Date of loan.

24 (c) Name of borrower.

25 (d) Amount of loan.

26 (3) Individual Account Card. A separate account record shall be maintained for each loan made or renewal thereof. Each account card
27 shall provide space for and record the following information:

28 (a) Name and address of licensee.

29 (b) Loan register number of loan.

30 (c) Date of loan.

31 (d) Name and address of borrower.

32 (e) Name and address of co-maker or endorser, if any.

33 (f) Brief description of security, if any.

34 (g) Actual amounts of individual charges shall be shown separately with respect to: Interests, fees, types and amounts of insurance
35 written and premium charged for each type, and recording fee, or premium charged for insurance written in lieu of recording fee and any
36 maintenance charges applicable thereto.

37 (h) Terms of repayment.

38 (i) Face amount of note.

39 (j) Payments received showing:

40 1. Date of payment.

41 2. Amount paid on account.

42 3. Remaining balance.

- 1 4. _____ Date to which account is paid.
- 2 5. _____ Any late charge collected, and date of collection.
- 3 (k) _____ Date of final payment on loan or expiration date.
- 4 (l) _____ If the balance of an account is collected by renewal, the new account card shall show the date of the previous account, and the
5 balance renewed.
- 6 (m) _____ If an account is paid out and a new loan made within 15 days, the new account card shall reflect the date the previous account was
7 made, the date the previous account was paid out, and the net balance paid.
- 8 (n) _____ In instances where one customer has two or more loans, the account card of each loan shall be indexed to the other outstanding
9 loans.
- 10 (o) _____ The entries on the individual account shall correspond with the receipts given the borrower.
- 11 (p) _____ No erasures whatsoever shall be made on the payments received section of the individual account. When an error is made on an
12 individual account card, a line shall be drawn through the improper entry and the correct entry made above or below.
- 13 (q) _____ The manager or assistant manager of each licensee shall verify each transaction on each account card as to mathematical
14 correctness, fees, charges, renewal information, former borrower information, sales finance conversions, dual loan information, and refund
15 information. After verifying the correctness of these entries, the manager or assistant manager shall initial each account card on the day of such
16 transaction. When an assistant manager is used in this capacity, the Industrial Loan Commissioner must be notified on a form obtained from
17 the Commissioner.
- 18 (4) _____ Cash Book. Each office shall maintain a cash book or daily report in which all receipts and disbursements of any amount shall be
19 entered. Separate spaces shall be provided for amounts received or charged as interest, fees, insurance premiums, recording fees and any
20 other receipts or disbursements made by the licensee. All such entries shall be made on the exact date on which they occur. This cash book
21 shall be balanced daily. This paragraph shall not prevent licensees from closing their books in the late afternoon, commonly known as providing
22 for "late drawer" payments, so long as entries of loans and collections are made on their exact date.
- 23 (5) _____ General Ledger.
- 24 (a) _____ General ledger shall show in full details the assets and liabilities of the business conducted in the licensed office. If licensee has a
25 general ledger reserve account for bad debts, all recoveries or collections on accounts previously charged off, shall be credited to this account.
26 The general ledger shall be posted at least monthly and a trial balance or a balance sheet shall be prepared within thirty (30) days after the
27 close of every monthly period. This trial balance or balance sheets shall be available to the Industrial Loan examiner for each monthly period
28 from the effective date of the Georgia Industrial Loan Act, or for a period of four years prior to the examination, whichever is the shortest time.
- 29 (b) _____ Organizations operating more than one licensed office may maintain the general ledger at their home office, providing the trial
30 balance or balance sheet of the licensed offices are made available to the Industrial Loan Examiner at the direction of the Commissioner within
31 thirty (30) days after the close of the monthly period and are retained for at least four years. The Commissioner may require that the general
32 ledger maintained at the home office be produced promptly after notice to the licensee.
- 33 (c) _____ Any charge made to any licensed office by the home office to cover any item of expense shall be in such detail as to show the nature
34 of the expense.
- 35 (d) _____ The use of combination forms of daily reports or special systems shall have the approval of the Commissioner prior to their use by
36 any licensee.
- 37 (6) _____ Filing of Original Papers.
- 38 (a) _____ An envelope or other similar file shall be maintained for each loan, in which shall be filed all the original notes, bills of sale, or other
39 evidence of indebtedness or security. If the original bill of sale or note is not in the file, a memo indicating the whereabouts of the original or a
40 true copy of the original shall be so filed in said envelope.
- 41 (b) _____ Only one file shall be maintained for each borrower, regardless of the number of loans, closed or outstanding, except where such
42 borrower is a co-maker, guarantor, or endorser with other borrowers.
- 43 (7) _____ Index of Borrowers. Every licensee shall keep an index card, filed alphabetically, on which all outstanding loans to each individual
44 shall be entered in order, showing due date, loan number and name of borrower.
- 45 (8) _____ Records.
- 46 (a) _____ All records and papers, including notes and other evidence of indebtedness or security signed by the borrower, shall be kept in the
47 licensed place of business, and made available to the representatives of the Commissioner at any time without previous notice unless the notes
48 are hypothecated or deposited as collateral, in which case said notes must be available for inspection upon notice of fifteen days.

1 (b) ——— The records of the licensee, such as the individual account cards or similar records, shall contain all essential details with respect to
2 any court actions involving collection of loans. The amount of court costs charged to the borrower shall be shown thereon. The files of the
3 licensee shall show that there has been compliance with all pertinent provisions of the law.

4 (9) ——— Loan Vouchers. Loan vouchers in duplicate shall be prepared covering each loan made, and must be signed by the maker of the loan
5 and by an employee of the licensee. A copy shall be kept in the file of the final transaction of the loan. A copy of the loan voucher shall be given
6 the borrower at the time the loan is made. Loan vouchers shall show the following information:

7 (a) ——— Date of loan.

8 (b) ——— Number of loan.

9 (c) ——— Total amount of loan.

10 (d) ——— Name and address of licensee.

11 (e) ——— Amount of charges and insurance (itemized to show the individual class).

12 (f) ——— Type of security.

13 (g) ——— Itemized list of all amounts coming out of the proceeds of the loan, including any unpaid balance of a former loan, and any accrued
14 charges thereon.

15 (h) ——— Amount of actual cash received by borrower.

16 **Rule 120-1-7-.03 Annual Report Deleted due to change in law. [80-14-4-.04](#) requires a quarterly loan**
17 **report to align with quarterly reporting requirements for other non-depository entities regulated by**
18 **the Department.**

19 Each licensee shall on or before the 15th day of April each year, file with the Commissioner an annual report on forms prescribed by the
20 Commissioner. This report shall consist of an annual statement concerning the foundation of the licensed company, a statement of operations
21 for the preceding year, including specific information regarding insurance on all loans, and an analysis on charges, loans, security and
22 delinquent accounts.

23 **Rule 120-1-7-.04 Severability**

24 If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and
25 the applicability of such provisions to other circumstances shall not be affected thereby.

26 **Rule 120-1-8-.01 Suspension, Revocation of License**

27 The Commissioner may, after notice and hearing as provided in Rule 120-1-2-.02, suspend, revoke, or refuse to renew any license issued under
28 the provisions of the Act when he finds that a licensee no longer possesses the financial responsibility, character and general fitness that will
29 command the confidence of the public and warrant a belief that the business will not be operated unfairly or unlawfully.

30 **Rule 120-1-9-.01 Specifications and Requirements Moved to and consolidated in [80-14-1-.04](#) regarding**
31 **advertisements. Provision regarding sample advertisements moved to [80-14-1-.02](#) regarding**
32 **minimum books and records.**

33 In order to prevent the distribution of any false, misleading or deceptive statements or deceptive representations in regard to the rules, terms
34 or conditions of any industrial loan subject to the provisions of the Georgia Industrial Loan Act, offered to the public, and to protect the public
35 interest and welfare, all advertising matter to be used in any manner by licensees shall conform to the following specifications and
36 requirements:

37 (a) ——— The words, "Advertisement" and "Advertising," as used in these regulations shall include all material printed, published, displayed or
38 broadcast for the purpose of obtaining applications for loans.

39 (b) ——— No licensee shall advertise that loans will be made at any place other than that named in its license, and every such advertisement
40 shall state or clearly indicate the identity of the licensee in such a manner as to prevent confusion with the name of any other unrelated
41 licensee.

42 (c) ——— No licensee shall use blind loan advertisements, such as giving only telephone or newspaper box addresses, or that do not clearly
43 indicate the identity of the licensee.

44 (d) ——— No licensee shall advertise that loans in general or particular classes or types of loans will be made within a certain limited time after
45 the loan application is received unless the majority of such licensee's loans are actually made within such limited time.

- 1 (e) ~~———— No licensee shall advertise and offer to grant loans of any size unless said loans are actually granted to all applicants or unless the~~
2 ~~same advertisement also contains a statement subjecting said offer to restrictions and requirements of the licensee.~~
- 3 (f) ~~———— No licensee shall advertise special terms, reduced rates, reduced payments, or loans within a certain limited time or offer any other~~
4 ~~such customer advantages unless the advertisement clearly states the class, kind or type of loans to which such advantages apply. Any licensee~~
5 ~~advertising reduced cost, reduced payments, or any other similar customer inducement shall clearly describe the inducement in the same~~
6 ~~advertisement.~~
- 7 (g) ~~———— No licensee shall advertise by the use of unqualified superlatives, such as "lowest rates," "lowest cost," "lowest payment plans,"~~
8 ~~"cheapest loans," or "no hidden charges," nor by making offers which cannot be generally fulfilled nor lowest insurance costs nor make any~~
9 ~~implication derogatory to competitors.~~
- 10 (h) ~~———— No licensee shall advertise the words "new" or "reduced" or words of similar import, in connection with rates, payments or plans or~~
11 ~~insurance for more than sixty days after the same shall have become effective.~~
- 12 (i) ~~———— Any licensee specifying in any advertising examples of loans offered shall show the amount and number of the payments on such~~
13 ~~loans and the actual amount of money the borrower receives. This information shall be shown clearly and in such a manner as not to be~~
14 ~~deceiving or misleading.~~
- 15 (j) ~~———— No licensee shall advertise rebates, rates, or charges below the maximum lawful rates which apply only in the event of prompt~~
16 ~~payments, unless such condition is clearly indicated.~~
- 17 (k) ~~———— No licensee shall advertise an offer to give, or give, any article of merchandise or anything of value, other than a reduction of~~
18 ~~charges, as an incentive to obtain a loan. When offering a reduction of charges, as an incentive to obtain a loan, the licensee shall clearly show~~
19 ~~in the advertising that such offer pertains only to the initial loan unless future loans will actually be made to the same borrower at the same~~
20 ~~reduced rate of charge.~~
- 21 (l) ~~———— No licensee shall use any advertising in the form of a simulated check or other negotiable instrument.~~
- 22 (m) ~~———— No licensee shall advertise that any sum of money is available to the recipient of such advertisement unless the terms and~~
23 ~~conditions under which said money may be acquired are clearly shown.~~
- 24 (n) ~~———— Every licensee shall maintain in the individual office or at a place agreed upon by the Industrial Loan Commissioner a scrap book or~~
25 ~~file of all newspaper, magazine, direct mailing and broadside advertising, and scripts of radio and television commercials for a period of one~~
26 ~~year. Such scrap book shall be readily available for inspection by the Commissioner or his representatives.~~
- 27 (o) ~~———— No licensee shall advertise the hiring of a manager formerly affiliated with another licensee whereby such manager is identified by~~
28 ~~picture or former affiliation or wherein such manager's former customers are suggested or encouraged to seek out the advertising licensee for~~
29 ~~future loans.~~

30 **Rule 120-1-9-.02 Submission of Proposed Advertising Prior to Use Deleted requirement to obtain**
31 **approval of advertisements to provide regulatory relief and efficiency.**

32 ~~Before any advertising matter shall be used in any manner by any licensee, it shall be first submitted to and approved by the Georgia Industrial~~
33 ~~Loan Commissioner or such member of his staff as he shall designate. If the licensee fails to hear from the Commissioner as to the approval or~~
34 ~~disapproval of such advertising within 45 days from the date it is submitted to the Commissioner for approval, it shall be deemed to be~~
35 ~~approved.~~

36 **Rule 120-1-9-.03 False or Misleading Statements Prohibited, Advertising Must Show Medium to be**
37 **Used Moved to and consolidated in [80-14-1-.04](#) regarding advertisements.**

38 ~~Advertising material submitted for approval shall not contain any false, misleading, deceptive, ambiguous or unethical statements and shall~~
39 ~~show the advertising medium to be used. (Radio, television, printed matter, newspaper or other medium).~~

40 ~~Rule 120-1-9-.04 Application~~

41 ~~This directive shall apply to all licensees or any group or association of licensees operating under any name whatsoever and doing business as~~
42 ~~individuals or collectively under the Georgia Industrial Loan Act.~~

43 ~~Rule 120-1-9-.05 Severability~~

44 ~~If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and~~
45 ~~the applicability of such provisions to other circumstances shall not be affected thereby.~~

46 **Rule 120-1-10-.01 Loans Moved requirement to provide receipt for payment to [80-14-5-.01](#) regarding**
47 **the loan contract, disclosures, and limitations. Remainder deleted as unnecessary.**

1 (1) ~~No loan shall be made for a period in excess of 36 months and 15 days.~~

2 (2) ~~The licensee shall give to the borrower a written receipt for each payment made on the loan. This receipt shall show the date of
3 payment, account number, balance on account before the payment, amount of payment and balance on the account. Provided, however,
4 nothing herein shall be construed as prohibiting the use of coupon books provided the coupons and the coupon stubs set forth the date the
5 payment is due, the account number, balance on account before the payment (not including late charges which may properly be assessed after
6 execution of the loan contract), amount of the payment and the balance on the account, in which event no other written receipt shall be
7 required to be furnished the borrower.~~

8 **Rule 120-1-10-.02 Installment Loans Moved requirement for equal installments to [80-14-5-.01](#)**
9 **regarding the loan contract, disclosures, and limitations. Remainder deleted as unnecessary.**

10 (1) ~~Single payment loans shall be repayable on terms not to exceed three calendar months. All other loan repayments shall be made in
11 equal installments, either weekly, every two weeks, semi monthly or monthly, except that the final installment may be in an amount greater,
12 but not more than one dollar (\$1.00) greater than the other periodic installments. With the exception of single payment loans, the initial
13 installment on all loans shall become due within a period not to exceed forty five (45) days from the date on which the loan is made but not
14 sooner than the regular installment period, whereby fees in excess of those authorized by the Act are charged.~~

15 (2) ~~All fees charged on renewals of existing loans and on new loans to the same borrower shall be in strict conformity with O.C.G.A. 5-7-
16 3-14.~~

17 **Rule 120-1-10-.03 Receipts and Other Papers Evidencing Indebtedness Moved requirement for**
18 **disclosures regarding other purchases to [80-14-5-.01](#) regarding the loan contract, disclosures, and**
19 **limitations. Remainder deleted as unnecessary.**

20 (1) ~~The licensee shall give the borrower a copy of every paper evidencing indebtedness which he is called upon to sign.~~

21 (2) ~~The licensee shall return to the borrower the original note contract upon payment of the indebtedness.~~

22 (3) ~~The licensee shall upon request, give the co-maker, the endorser or surety a copy of every paper evidencing indebtedness which he
23 is called upon to sign.~~

24 (4) ~~No licensee shall allow a customer to prepay undue payments for the purpose of bringing the account out of the restricted period in
25 order to renew and charge full fees which results in charges exceeding the limit under the Act. Prepayments on contracts renewed or
26 refinanced within the restricted fee provision of the Act shall not have the effect of reducing the amount subject to fee restriction; the amount
27 of prepayment shall be included in the restricted amount of the prior loan being renewed.~~

28 (5) ~~Loan fees upon renewals are restricted as provided in the Act. Where a customer has more than one loan with a licensee and seeks
29 to renew any two loans, the restricted fee provision of the Act shall be applied to the aggregate total balance on all loans being renewed.~~

30 (6) ~~Dual Loans. Interest and fees on a second and all subsequent loans by the same borrower or borrowers shall not exceed the interest
31 and fees collectible if all the loans were consolidated into one, at the date of execution of such second or subsequent loan.~~

32 (7) ~~If any loan within the Georgia Industrial Loan Act is made in conjunction with the provision of any item, service, or commodity
33 incidental to the advancement of funds, or if any other element is introduced into the transaction at the expense of the borrower, then the
34 licensee shall provide to the borrower a separate written disclosure statement. The disclosure statement shall disclose, in no smaller than
35 twelve point type, the following:~~

36 (a) ~~That the borrower does not have to purchase any such item, service, or commodity, or pay for such element, in order to obtain the
37 loan.~~

38 (b) ~~The cost to the borrower of any such purchase or element.~~

39 (c) ~~The disclosure statement shall contain the borrower's signed acknowledgement of the borrower's understanding that such purchase
40 or element is not required.~~

41 (d) ~~The disclosure statement shall contain the borrower's signed acknowledgement of the borrower's understanding of the specific cost
42 to the borrower for each such item, service, commodity, or element.~~

43 (e) ~~A copy of the signed document shall be provided to the borrower, and the licensee shall retain the original in the loan file.~~

44 **Rule 120-1-10-.04 Maximum Interest Per Month**

45 (1) ~~No licensee may charge either directly or indirectly a rate greater than five (5) per cent per month. This restriction shall apply to
46 interest and charges other than bona fide insurance premiums. Upon prepayment of a loan prior to the due date, each licensee shall recompute
47 both interest and charges, other than bona fide insurance premiums to ascertain if a rate greater than five (5) per cent per month has been
48 charged and to the extent of such overcharge refund to the borrower.~~

1 (2) ~~_____ No licensee shall compute a loan and repayment thereon with interest figured on a monthly basis and require the loan to be repaid~~
2 ~~in weekly, bi-weekly or semi-monthly installments, which, when computed on the actual basis of repayment, exceeds the limit under the Act.~~

3 ~~Rule 120-1-10-.05 Severability~~

4 ~~If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and~~
5 ~~the applicability of such provisions to other circumstances shall not be affected thereby.~~

6 **Rule 120-1-11-.01 General Regulations, All Insurance Deleted. Any insurance-related requirements**
7 **are the purview of the Insurance Commissioner.**

8 (1) ~~_____ Evidence of insurance. All insurance authorized and included in or incident to a loan contract made under the provisions of the~~
9 ~~Georgia Industrial Loan Act shall be evidenced by a policy or certificate of insurance which shall be delivered to the borrower at the time the~~
10 ~~indebtedness is incurred. The policy and the certificate of insurance shall describe the amount and term of the coverage, the amount of the~~
11 ~~premium and a description of the coverage including any exceptions, limitations or restrictions. If a policy or certificate of insurance is not~~
12 ~~delivered to the borrower at the time the indebtedness is incurred, the insurer shall cause to be delivered to the borrower a policy or certificate~~
13 ~~of insurance within 30 days of incurred indebtedness. An application or notice of proposed insurance form shall serve as a binder during the~~
14 ~~first 30 days of incurred indebtedness.~~

15 (2) ~~_____ If any loan within the Georgia Industrial Loan Act is made in conjunction with the sale of insurance authorized and included in or~~
16 ~~incidental to the advancement of funds at the expense of the borrower, then the licensee shall provide to the borrower a separate written~~
17 ~~disclosure statement. The disclosure statement shall disclose, in no smaller than twelve point type, the following:~~

18 (a) ~~_____ The cost to the borrower of any such insurance.~~

19 (b) ~~_____ A copy of the signed document shall be provided to the borrower, and the licensee shall retain the original in the loan file.~~

20

21 (3) ~~_____ Payment of Claims.~~

22 (a) ~~_____ No licensee under the act shall execute any contract or agreement with any person, firm or corporation which permits such licensee~~
23 ~~to retain any portion of the premium for payment of losses incurred or to be incurred under policies or certificates of insurance.~~

24 (b) ~~_____ No plan or arrangement shall be used whereby any person, firm or corporation other than the insurance company or its designated~~
25 ~~claim agent or representative shall be authorized to settle or negotiate the settlement of claims.~~

26 (c) ~~_____ Each individual policy, group policy and certificate of insurance shall state that the benefits payable there under shall only be paid to~~
27 ~~the licensee to reduce or extinguish the borrower's then outstanding loan balance in the case of credit life insurance coverage; or for the exact~~
28 ~~amount of the borrower's covered installment payment due in the case of credit accident and sickness insurance. Each individual policy, group~~
29 ~~policy and certificate of insurance shall further state that if the amount of insurance benefits payable exceeds the borrower's outstanding~~
30 ~~insured loan balance in the case of credit life insurance; or the exact amount of the borrower's covered installment payment due in the case of~~
31 ~~credit accident and sickness insurance by an amount of one dollar (\$1) or more, such excess amounts shall be payable either to the borrower or~~
32 ~~to a beneficiary named by the borrower other than the creditor or to the borrower's estate.~~

33 (d) ~~_____ Payment of any such excess amount to the borrower or to any beneficiary named by the borrower other than the licensee or to the~~
34 ~~borrower's estate shall be made payable only to such borrower or to such other beneficiary named by the borrower. The delivery of such~~
35 ~~excess benefit check or draft may be accomplished by the licensee acting as an authorized agent of the insurer. For the purpose of this rule, the~~
36 ~~term "excess amount" shall mean any amount which is payable to the borrower or to the beneficiaries of the borrower other than the licensee~~
37 ~~or to the borrower's estate under the credit insurance policy which exceeds the amount necessary to extinguish the borrower's then~~
38 ~~outstanding insured loan balance in the case of credit life insurance, or the exact amount of the borrower's covered installment payment due in~~
39 ~~the case of credit accident and sickness insurance by an amount of one dollar (\$1) or more.~~

40 (e) ~~_____ Where proceeds from insurance written in connection with a loan under the Act prepay an account in full, a refund shall be made~~
41 ~~on interest, fees, and insurance premiums computed as of the date of the event insured against.~~

42 (f) ~~_____ Insurance proceeds paid on an industrial loan and credited to the account by the finance company shall have the same effect as if a~~
43 ~~like amount was paid by the borrower and no late charges shall be charged to any borrower for any such payments or accounts which have~~
44 ~~been paid by such insurance proceeds.~~

45 (4) ~~_____ Agents, Agents Commissions.~~

46 (a) ~~_____ All individual insurance solicited, sold and issued in conjunction with a loan contract under the provisions of the Georgia Industrial~~
47 ~~Loan Act shall be solicited, sold and issued by an agent, subagent or limited subagent licensed under the provisions of the Georgia Insurance~~
48 ~~Code.~~

49 (b) ~~_____ No licensee or any other person subject to the provisions of the Georgia Industrial Loan Act or the Rules and Regulations of the~~
50 ~~Office of Commissioner of Insurance shall contract for, charge, collect, or accept, directly or indirectly as an insurance agent or general agent or~~

1 through any contract of credit life or credit accident and sickness insurance written or procured by such licensee pursuant to the Georgia
2 Industrial Loan Act as remuneration for the sale of such insurance in this state any commissions, service fees, or other forms of compensation
3 other than those which are contained in the written agency agreement or agency contract between such insurer and its agent.

4 (c) ~~_____ No person shall solicit, directly or indirectly, make or cause to be made any contract of credit insurance unless such person holds a~~
5 ~~valid agent, subagent, or a limited subagent license.~~

6 (d) ~~_____ All licensees and any other persons subject to the provisions of the Georgia Industrial Loan Act or the Rules and Regulations of the~~
7 ~~Office of Commissioner of Insurance, Georgia Industrial Loan Department, shall be required in the handling of insurance to comply in all~~
8 ~~respects with the applicable requirements of Title 33 of the Official Code of Georgia Annotated, and of the Rules and Regulations of the Office~~
9 ~~of Commissioner of Insurance.~~

10 (5) ~~_____ Any agent, subagent, agency or licensee writing credit life or credit accident and sickness insurance in this state shall provide forms~~
11 ~~necessary to file claims within fifteen (15) calendar days of a request with reasonable explanations regarding their use and shall forward such~~
12 ~~claim to the insurer within twenty (20) business days of receipt of written proof of loss.~~

13 (6) ~~_____ Quarterly Insurance Reports. Quarterly Insurance Reports shall be filed with this department on a form obtained from the~~
14 ~~Commissioner on or before the 20th of each month following the quarters ending March 31, June 30, September 30 and December 31. Such~~
15 ~~forms shall reflect the number of loans made with insurance coverage, amount of loans, total premiums charged, refunds, net premium~~
16 ~~charged, the percent of insurance claims paid to net premiums collected, and name of the insuring company as to:~~

17 (a) ~~_____ Life insurance;~~

18 (b) ~~_____ Accident and sickness insurance;~~

19 (c) ~~_____ Household goods fire insurance;~~

20 (d) ~~_____ Automobile insurance;~~

21 (e) ~~_____ Non recording insurance.~~

22 Rule 120-1-11-.02 Credit Life Insurance

23 (1) ~~_____ Coverage.~~

24 (a) ~~_____ Level term life insurance will pay the first beneficiary at the death of the insured the amount of the indebtedness, not exceeding the~~
25 ~~amount of insurance stated in the policy, and pay the second beneficiary the amount stipulated in excess of the indebtedness; or if there be no~~
26 ~~indebtedness, the full face amount of the policy shall be paid to the second beneficiary.~~

27 (b) ~~_____ Reducing term life insurance will pay the first beneficiary the amount of indebtedness, if any, owing by the insured to the first~~
28 ~~beneficiary at the time of the death of the insured.~~

29

30 (2) ~~_____ Rates.~~

31 (a) ~~_____ Credit level term life insurance or group credit level term life insurance may be written as security on all loans made under the~~
32 ~~provisions of the Industrial Loan Act. Insurance coverage shall not exceed the face amount of the contract. The premium shall not exceed \$.84~~
33 ~~per annum per \$100.00 of the face amount of the loan unless otherwise authorized by law and applicable rules and regulations.~~

34 (b) ~~_____ Credit decreasing term life insurance may be written on all loans made under the provisions of the Act. Insurance coverage shall not~~
35 ~~exceed the face amount of the contract. The premium shall not exceed \$.45 per annum per \$100.00 of the face amount of the loan unless~~
36 ~~otherwise authorized by law and applicable rules and regulations. For premiums not based on initial insured indebtedness, the premium shall~~
37 ~~not exceed a monthly rate of \$.70 per \$1,000.00 of outstanding unpaid insured indebtedness.~~

38 (c) ~~_____ Single premiums for credit life insurance covering joint lives on either of the bases in subparagraphs (2)(a) or (2)(b) of this rule shall~~
39 ~~not exceed 150 percent of the appropriate single life rate specified in subparagraphs (2)(a) or (2)(b) of this rule.~~

40 (d) ~~_____ Single premiums for credit decreasing term life insurance covering joint lives on either of the bases in paragraph (c) of this rule shall~~
41 ~~not exceed 150 percent of the appropriate single life rate specified in paragraph (c) of this rule.~~

42 (3) ~~_____ Policy status at renewal, refinancing or repayment of entire contract.~~

43 (a) ~~_____ If through prepayment the indebtedness is discharged prior to the scheduled maturity date, the insured in all instances (except~~
44 ~~group credit reducing term life, which must be canceled) shall be given the option either to cancel or to retain such insurance. The option to~~
45 ~~cancel or to retain shall be set forth in writing either as a part of the policy or certificate or by separate written statement furnished to the~~
46 ~~debtor.~~

1 (b) ——— In the event of renewal or refinancing accounts where credit life insurance is written on the new loan, any unexpired credit life
2 insurance which was written in connection with the previous loan or loans, shall be concurrently canceled and proper credit given the borrower
3 by refunding to him the unearned portion of the premium on the former policy or policies.

4 (4) ——— Refund of Premiums.

5 (a) ——— All unearned premiums on credit life insurance shall be made according to the Rule of 78's without regard to a minimum refund
6 provision.

7 (b) ——— Refunds will be made in all instances of insurance cancellations due to prepayments, renewals, and refinancing with the exception of
8 a loan prepaid in full by credit life insurance proceeds; in this event life insurance premiums shall be considered earned unless otherwise
9 provided in the insurance contract.

10 (5) ——— Insured.

11 (a) ——— Where a credit life insurance policy or certificate is issued to cover two lives jointly, the amount of credit life insurance shall be made
12 payable upon the death of the first to die during the term of the policy, and the policy or certificate will then terminate. The phrase "two lives"
13 as used in the preceding sentence means only spouses or business partners and such persons must be jointly and severally liable for the
14 repayment of the single indebtedness and be joint signers of the instrument of indebtedness. Endorsers and guarantors are not eligible for such
15 credit insurance coverage covering joint lives. Joint life coverage shall not be written covering more than two lives. Jointly indebted spouses
16 shall not be covered separately at single life rates.

17 (b) ——— No disability benefit provisions may be included in such a joint credit life policy, except that disability benefits may be provided on
18 one of the lives insured who is specifically identified by name if the policy provisions clearly indicate that only such person is covered for
19 disability benefits.

20 (c) ——— If a credit life policy containing a suicide exclusion is issued on joint lives, the policy must be specific regarding termination of the
21 policy, or continuation of the policy on the life of the survivor, and appropriate refunds to be made in the event suicide does occur.

22 (6) ——— Principal Party Rule.

23 (a) ——— As used in paragraph (3) of O.C.G.A. Section 7-3-14, the term "principal party" refers to the person or persons from whom
24 repayment of the loan is expected because such person:

25 1. ——— has applied for the loan; and

26 2. ——— possesses assets, income, or indicia of credit worthiness from which the expectation of repayment is reasonably drawn; and

27 3. ——— is not an endorser or guarantor.

28 (b) ——— A spouse is not principal party by virtue only of the status of spouse without meeting the criteria of subparagraph (a) of this
29 paragraph.

30 (c) ——— The burden of proving the status of a person as a principal party for purposes of requiring insurance shall be upon the licensee. Such
31 information shall be obtained in writing by the licensee and shall become a part of the loan file.

32 (7) ——— The Industrial Loan Commissioner may review the regulations concerning credit insurance and promulgate such changes as are
33 appropriate.

34 Rule 120-1-11-.03 Credit Accident and Sickness Insurance

35 (1) ——— Coverage. Credit accident and sickness insurance may be written on all loans made under the provisions of the Georgia Industrial
36 Loan Act. Provided, however, any such insurance written in connection with such a loan shall not provide for monthly benefits which exceed
37 the amount of one monthly repayment installment loan.

38 (2) ——— Rates.

39 (a) ——— On loans where the actual amount of cash advanced is one hundred dollars (\$100.00) or less, no credit accident and sickness
40 insurance shall be written which provides a waiting period in excess of three (3) days, coverage shall be retroactive and no premium shall be
41 charged for such insurance in excess of \$3.06 per annum per five dollars (\$5.00) per month benefit unless otherwise authorized by law and
42 applicable Rules and Regulations.

43 (b) ——— On loans where the actual amount of cash advanced is in excess of one hundred dollars (\$100.00), no credit accident and sickness
44 insurance shall be written which provides a waiting period in excess of seven days. Coverage shall be retroactive and no premium shall be
45 charged for such insurance in excess of \$2.10 per annum for five dollars (\$5.00) per month benefit unless otherwise authorized by law and
46 applicable Rules and Regulations. Provided, however, if the waiting period is three (3) days, no premium shall be charged for such insurance in
47 excess of \$3.06 per annum for five dollars (\$5.00) per month benefit unless otherwise authorized by law and applicable Rules and Regulations.

48 (3) ——— Policy status at renewal, refinancing or prepayment of entire contract.

1 (a) ~~———— If through prepayment the indebtedness is discharged prior to the scheduled maturity date, the insured in all instances (except for~~
2 ~~group coverage which must be canceled) shall be given the option either to cancel or to retain such insurance. The option to cancel or to retain~~
3 ~~shall be set forth in writing either as a part of the policy or by separate written statement furnished to the debtor.~~

4 (b) ~~———— In the event of renewal or refinanced accounts where credit accident and sickness insurance is written on the new loan, any~~
5 ~~unexpired credit accident and sickness insurance written in connection with the previous loan or loans shall be concurrently canceled and~~
6 ~~proper credit given the debtor by refunding to him the unearned portion of the premium on the former policy or policies.~~

7 (4) ~~———— Refund of Premiums.~~

8 (a) ~~———— All unearned premiums on credit accident and sickness insurance shall be refunded according to the Rule of 78's without regard to a~~
9 ~~minimum refund provision.~~

10 (b) ~~———— Refunds shall be made in all instances of insurance cancellations due to prepayments, renewals, and refinancing with the exception~~
11 ~~of the loan being prepaid in full by accident and sickness insurance proceeds; in this event accident and sickness premiums shall be considered~~
12 ~~earned unless otherwise provided in the insurance contract.~~

13 (5) ~~———— Claim Forms. All insurance companies writing accident and sickness insurance in connection with loans made under the Georgia~~
14 ~~Industrial Loan Act shall use medical claim forms wherein a doctor's signature is required in connection with making claims for losses occurring~~
15 ~~under accident and sickness policies.~~

16 (6) ~~———— Claims relative to renewals and refinancing. Renewal or refinancing of a loan shall not operate to extinguish an insurance contract~~
17 ~~when as an incident to such renewal or refinancing another insurance contract is entered into by the same insurer and insured. Any new~~
18 ~~insurance contract issued incident to such renewal or refinancing shall be a continuation of the original contract and any waiting periods or~~
19 ~~existing disease provisions shall relate to the date of the initial insurance contract.~~

20 (7) ~~———— No credit accident and sickness policy shall be issued in this State to cover two lives jointly.~~

21 Rule 120-1-11-.04 Household Goods Fire Insurance

22 (1) ~~———— Coverage.~~

23 (a) ~~———— Dual interest household goods insurance shall insure both the creditor and the debtor as their interest may appear against loss or~~
24 ~~damage caused by fire, lightning and collision;~~

25 (b) ~~———— Single interest household goods insurance shall insure only the interest of the Creditor Loss Payee or assignees against loss or~~
26 ~~damage caused by fire, lightning and collision.~~

27 (2) ~~———— Rates. The rates for both single interest and dual interest household goods insurance shall be approved by the Georgia Insurance~~
28 ~~Department and the Georgia Industrial Loan Department. Rates may differ between single and dual interest insurance and between protected~~
29 ~~and unprotected areas.~~

30 (3) ~~———— No household goods insurance may be written where the maximum premium approved by the Georgia Insurance Department is less~~
31 ~~than one dollar (\$1.00).~~

32 (4) ~~———— Refund of premiums. All unearned premiums on single or dual interest household goods insurance included on a loan contract on~~
33 ~~items pledged as collateral to secure a loan shall be refunded according to the Rule of 78's. Refunds shall be given on all insurance contracts~~
34 ~~canceled before the expiration date.~~

35 (5) ~~———— Limitation, Coverage.~~

36 (a) ~~———— On loans where household goods are the only collateral and the actual market value is equal to or exceeds the face amount of the~~
37 ~~note, the insurance written shall not exceed the face amount of the note.~~

38 (b) ~~———— On loans where household goods are the only collateral and the actual market value is less than the face amount of the note,~~
39 ~~insurance, if written, shall be for the actual market value of the household goods.~~

40 (6) ~~———— Loss Payee. No licensee shall require fire insurance to be written on any household goods pledged as security for a loan if the~~
41 ~~borrower produces evidence that such pledged property is insured for the term of the loan and endorses the insurance policy to the licensee as~~
42 ~~assignee or loss payee. A licensee, who requires insurance on collateral pledged to secure a loan and who writes such insurance, shall be liable~~
43 ~~to the borrower in case of loss covered by the policy in the full amount even though coverage is provided by other insurance. The licensee~~
44 ~~cannot deny liability, or any part thereof, on the grounds that said collateral is covered by other insurance.~~

45 Rule 120-1-11-.05 Automobile Insurance

46 (1) ~~———— Coverage.~~

47 (a) ~~———— Dual interest automobile insurance shall insure both creditor and debtor as their interest may appear against loss or damage caused~~
48 ~~by fire, theft, and collision.~~

- 1 (b) ~~Single interest automobile insurance shall insure only the interest of the creditor loss payee or assignee against loss caused by fire,~~
2 ~~theft and collision.~~
- 3 (2) ~~Rates. The rates for both single interest and dual interest automobile shall be those which meet the applicable standards and~~
4 ~~requirements contained in Chapter 9 of Title 33 of the Official Code of Georgia Annotated and the applicable Rules and Regulations of the~~
5 ~~Georgia Insurance Department.~~
- 6 (3) ~~Term and Type Coverage Permitted. Single interest insurance coverage issued in connection with a loan contract made under the~~
7 ~~provisions of the Georgia Industrial Loan Act shall not exceed the term of said loan contract. Automobile insurance coverage issued in~~
8 ~~connection with loans made under the provisions of the Georgia Industrial Loan Act shall be limited to fire, theft and collision, or~~
9 ~~comprehensive and collision.~~
- 10 (4) ~~Refund of premiums.~~
- 11 (a) ~~All unearned premiums on single interest automobile insurance shall be refunded according to the Rule of 78's.~~
- 12 (b) ~~All unearned premiums on dual interest automobile insurance shall be refunded on a pro-rata basis when canceled by the insurer~~
13 ~~and on a short rate basis when canceled by the insured.~~
- 14 (5) ~~Limitation of coverage.~~
- 15 (a) ~~Single interest automobile insurance may be written in an amount not to exceed the face amount of the loan or the actual market~~
16 ~~value of the automobile, whichever is smaller.~~
- 17 (b) ~~Dual interest automobile insurance may be written in an amount not to exceed the actual cash value of the automobile as~~
18 ~~determined by authorized publications of the insurance industry. Coverage is not limited by the face amount of the note.~~
- 19 (6) ~~Loss Payee. No licensee shall require automobile insurance to be written on an automobile pledged as security for a loan if the~~
20 ~~borrower produces evidence that such pledged property is insured for the term of the loan and endorses the insurance policy to the licensee as~~
21 ~~assignee or loss payee.~~
- 22 (7) ~~Insurance on Dual Collateral.~~
- 23 (a) ~~When household goods and an automobile are both pledged as security on a loan and the actual cash value of the automobile and~~
24 ~~the market value of the household goods together are less than the face amount of the loan, the insurance written shall be for the actual~~
25 ~~market value of the automobile and the household goods. This applies regardless of whether or not single interest or dual interest coverage is~~
26 ~~written on any of the policies.~~
- 27 (b) ~~In the event the actual market value of the automobile and the household goods exceed the face amount of the contract and single~~
28 ~~interest insurance is written on both types of collateral, the amount of coverage shall not exceed the face amount of the contract.~~
- 29 (c) ~~A licensee shall not divide the amount of insurance written on collateral in such a manner as to penalize a borrower in the amount of~~
30 ~~insurance premium he is required to pay.~~
- 31 (d) ~~Insurance written may exceed the face amount of the contract in the event the actual cash value of an automobile exceeds the~~
32 ~~amount of the contract and dual interest coverage is provided. If household goods are included as security on the loan, insurance coverage shall~~
33 ~~not be written on such household goods.~~
- 34 (e) ~~All insurance written on personal property pledged as security for a loan shall be written in one contract. No licensee shall write fire,~~
35 ~~theft and collision insurance with \$50.00, or some other amount, deductible and then write a separate single interest policy on the same~~
36 ~~automobile for the deductible amount.~~
- 37 (f) ~~Where equity in an automobile which has been or is being financed with insurance coverage, is pledged as security for a loan,~~
38 ~~insurance may be written only to cover that period of the life of the loan that is not covered by the existing contract of insurance.~~
- 39 Rule 120-1-11-.06 Non-Recording Insurance
- 40 (1) ~~No licensee shall charge any recording fee, or actual premiums on insurance used in lieu of such recording fee unless the amount of~~
41 ~~such fee or premium be fully set forth in the copy of the loan contract or voucher furnished to the borrower.~~
- 42 (2) ~~Non-recording insurance may be written on loans with a face amount in excess of \$100.00. Such insurance may be written in lieu of~~
43 ~~recording the security instrument with the proper "public official or agency of the State" and protects the lender against losses.~~
- 44 (3) ~~Rates. The rates for such non-recording insurance shall be those which meet the applicable standards and requirements contained in~~
45 ~~Chapter 9 of Title 33 of the Official Code of Georgia Annotated and the applicable Rules and Regulations of the Georgia Insurance Department.~~
- 46 (4) ~~Restrictions.~~
- 47 (a) ~~If no security exists on a loan, charges for non-recording insurance are illegal.~~

1 (b) ~~_____ A licensee shall not select non-recording insurance instead of recording if the choice will cost the borrower more money.~~

2 (5) ~~_____ Commissions. A licensee shall not deduct a fee or commission from the borrower's payment of non-recording insurance premiums.~~
3 ~~Where commissions are returned to the lender, such shall be credited to the customer's account.~~

4 Rule 120-1-11-.07 Repossession Expenses

5 The actual and reasonable expenses of repossessing, storing and selling any collateral pledged as security under the Act shall not exceed the
6 expenses of repossessing, storing and selling recoverable under other provisions of law.

7 Rule 120-1-11-.08 Insurance Claims Register

8 Each licensee of the Georgia Industrial Loan Act shall maintain on a daily basis an insurance claims register. There shall be recorded on this
9 register, with respect to any and all claims against insurance sold in connection with a loan made under the provisions of the Georgia Industrial
10 Loan Act, the loan account number, the name of the borrower/insured, the type of claim filed, the date of loss, the amount of claim, the date
11 the claim was filed with the insurer, the date the claim was paid, the amount of the claim payment and the name and address of the person or
12 entity to whom the proceeds of the claim payment were disbursed. In addition to the foregoing information, if a claim is filed against credit life
13 insurance coverage, the date of the insured's death shall be shown on the insurance claims register. In addition to the foregoing information, if
14 a claim is filed against credit life insurance coverage, the date of the insured's death shall be shown on the insurance claims register. In addition
15 to the foregoing information, if a claim is filed against credit accident and sickness insurance coverage, the number of days for which the
16 disability claim is filed shall be recorded on the insurance claims register. Register will include all denied claims and all paid claims.

17 Rule 120-1-11-.09 Severability

18 If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and
19 the applicability of such provisions to other circumstances shall not be affected thereby.

20 Rule 120-1-12-.01 Computing the Refund Factor

21 Each licensee shall in computing the refund factor, carry such factor to a minimum of five digits to the right of the decimal for maximum
22 accuracy.

23 **Rule 120-1-13-.01 Loan Tax, Reporting Method Moved to [80-5-1-.08](#) regarding Levy, Collection, and**
24 **Remittance of Tax on Interest Paid to Installment Lenders.**

25 (1) ~~_____ A tax shall be paid monthly on all interest charged on loans made under the Act. A licensee may report such monthly loan tax on~~
26 ~~interest either on a "cash basis" or on an "accrual basis." A licensee may elect to report such tax on either basis; however, once a licensee has~~
27 ~~made an election, such basis shall not be changed without the approval of the Commissioner.~~

28 (2) ~~_____ A licensee shall report its monthly loan tax by use of one of the following methods:~~

29 (a) ~~_____ "Cash Method" is based on actual interest charged during the month as reported in the daily cash report. The charges of interest~~
30 ~~shall be increased by recoveries of interest on accounts previously written off and the interest may be reduced by interest on accounts to be~~
31 ~~presently written off and interest being refunded on accounts prepaid by cash, renewal and refinancing. The net interest is subject to the tax.~~

32 (b) ~~_____ "Accrual method" is based principally on collections during the month of accounts under the Act. An accurate percentage~~
33 ~~comparison of interest charged to gross loan is obtained by dividing the outstanding loans at the beginning of the month into unearned interest~~
34 ~~at the beginning of the month. The percent obtained is then multiplied by the collections for the month. The total obtained is subject to be~~
35 ~~taxed.~~

36 Rule 120-1-14-.01 Statutory Authority

37 This Regulation is made and promulgated by the Industrial Loan Commissioner pursuant to the authority set forth in O.C.G.A. § 7-3-7.

38 Rule 120-1-14-.02 Purpose

39 The purpose of this Regulation is:

40 (a) ~~_____ To establish and maintain standards of conduct in the business of making industrial loans under the Georgia Industrial Loan Act by~~
41 ~~regulating trade practices in said business by defining, or providing for the determination of, such practices in this State which constitute unfair~~
42 ~~methods of competition and by prohibiting the acts or practices so defined or determined.~~

43 (b) ~~_____ To provide standards of conduct which are just, fair, equitable and are not misleading or deceptive.~~

44 (c) ~~_____ To encourage fair dealing and protection to consumers against unfair and deceptive practices.~~

45 (d) ~~_____ To permit and encourage the development of fair and economically sound credit practices in the business of making loans under the~~
46 ~~Georgia Industrial Loan Act.~~

1 Rule 120-1-14-.03 Unfair or Deceptive Acts or Practices or Unfair Methods of Competition Prohibited

2 No creditor shall be engaged in this State in any act or practice which is defined in this Regulation to be an unfair or deceptive act or practice or
3 an unfair method of competition in the business of making industrial loans. Violation of any of the following sections of this Regulation are
4 hereby defined as, and shall constitute, unfair or deceptive acts or practices or unfair methods of competition in the business of making loans
5 under the Georgia Industrial Loan Act.

6 Rule 120-1-14-.04 Definitions

7 As used herein, unless a different meaning or construction is clearly required by the context, the following terms shall have the following
8 meaning:

9 (a) "Act" means the Georgia Industrial Loan Act, codified as Chapter 3 of Title 7 of the Official Code of Georgia Annotated, and any
10 amendments thereof.

11 (b) "Commissioner" means the Commissioner of Insurance/Comptroller General ex officio Georgia Industrial Loan Commissioner.

12 (c) "Claim" means any obligation, or alleged obligation arising from a consumer loan transaction.

13 (d) "Consumer" means a natural person who seeks or acquires real or personal property, services, money, or credit in a transaction
14 subject to the provisions of the Act.

15 (e) "Consumer Loan" means a loan made by a lender to a consumer under the Act which is payable in installments, or for which a
16 finance charge is, or may be imposed.

17 (f) "Consumer Transaction" means a transaction in which one or more of the parties is a consumer.

18 (g) "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

19 (h) "Creditor" means a person who is engaged in the business of making industrial loans under the Act, and includes any and all of such
20 persons, agents and employees.

21 (i) "Debt Collection" means any action, conduct, or practice in connection with the collection of claims, that are owed or due, or alleged
22 to be owed or due, to a creditor by a consumer.

23 (j) "Debt Collector" means any creditor, or any person including the person's agents and employees, engaged directly or indirectly in
24 debt collection, and includes any person who sells or offers to sell forms represented to be a collection system, device, or scheme intended or
25 calculated to be used to collect claims.

26 (k) "Default" with respect to a consumer loan transaction means the failure, without legal justification under any provision of law, of the
27 consumer to meet the obligations imposed upon him by virtue of the consumer loan transaction.

28 (l) "Loan" means any transaction defined as a loan in O.C.G.A. § 7-3-3(4), including but not limited to the following:

29 1. The creation of debt by the lender's payment of or agreement to pay money to the customer or to a third party for the account of
30 the debtor,

31 2. The forbearance by a lender of debt arising from a loan.

32 (m) "Organization" means a corporation, trust, estate, partnership, cooperative, association, or other entity.

33 (n) "Person" means a natural person, a corporation, firm, partnership, association or other entity.

34 (o) "Security Interest" means an interest in property which secures payment or performance of an obligation. The term includes security
35 interests under the Uniform Commercial Code, real property mortgages, deeds of trust, deeds to secure debt, and other similar instruments
36 whether or not recorded.

37 **Rule 120-1-14-.05 Late Charge Moved to and consolidated in [80-14-5-03](#) regarding closing,**
38 **convenience, and other fees.**

39 O.C.G.A. § 7-3-14(4) specifically provides that a licensee may charge and collect from the borrower a late or delinquent charge of \$10.00 or an
40 amount equal to 5¢ for each \$1.00 of any installment which is not paid within five days from the date such payment is due, whichever is
41 greater, provided that this late or delinquent charge shall not be collected more than once for the same default. Therefore, a licensee is not
42 authorized to charge and collect a late or delinquent charge from a borrower until such time as that borrower has actually failed to pay an
43 installment within five days after the date such payment was due. Under no circumstances is a licensee authorized to charge or collect and hold
44 any unearned late or delinquent charge in advance, to be refunded if said installment is paid on or within five days from the date such payment
45 is due.

46 Rule 120-1-14-.06 Prepayment

1 When any loan is paid in full before the final scheduled payment date, the consumer may do so without penalty and the creditor shall refund or
2 credit the consumer with a portion of the interest charge. The amount of the refund shall represent at least as great a portion of the total
3 interest charge as the sum of the periodical time balance after the date of prepayment bears to the sum of all periodical time balances under
4 the schedule of payments in the original contract. No refund of less than One (\$1.00) Dollar need be made. If such prepayment is made by the
5 debtor other than on a scheduled payment date, the portion of the interest charge refunded shall be made in accordance with law.

6 **Rule 120-1-14-.07 Charges for Refinancing Moved to and consolidated in [80-14-5-.03](#) regarding closing,**
7 **convenience, and other fees.**

8 When any debt is renewed or refinanced by any creditor, the consumer shall be entitled to a refund or credit of that unearned portion of the
9 interest charge computed as of the date of such refinancing or renewal.

10 **Rule 120-1-14-.08 Agreement; Contents Moved to and consolidated in [80-14-5-.03](#) regarding closing,**
11 **convenience, and other fees.**

12 (1) — Every consumer loan transaction shall be pursuant to a written agreement (which may include a loan voucher, itemized statement of
13 loan and charges, and disclosure statement), which shall be signed by the consumer. A copy of the agreement shall be delivered to the
14 consumer at the time it is executed by him. The agreement shall be contained in a single document which may contain more than one page.
15 Printed terms shall be printed in at least six point standard type.

16 (2) — In connection with every consumer loan transaction, the consumer shall be furnished a written itemized statement in clear terms
17 and easily understood language which shall show: the transaction date, a description of the subject matter and amount of the transaction, a
18 description of the collateral, if any, securing the consumer's obligations; the identity and address of the consumer and the identity and address
19 of the creditor; a schedule of the payments; the amount of the actual cash advanced to or on behalf of the consumer; the amount of each class
20 of insurance carried and the premium paid thereon, stated separately for each class of insurance; and an itemization of the exact amount of the
21 interest, fees and other charges, if any, showing each element thereof.

22 (3) — The agreement shall include immediately above the place for the signature for the parties the following notice:

23 **NOTICE TO CONSUMER**

24 (a) — Do not sign this agreement if it contains any blank spaces.

25 (b) — You are entitled to an exact copy of all papers you signed.

26 (c) — You have the right at any time to pay in advance the full amount due under this agreement and under certain conditions to obtain a
27 partial refund of the interest charges.

28 (d) — If credit life insurance is required, you have the right to purchase either level term life insurance or reducing term life insurance
29 coverage.

30 (e) — You are not required to purchase noncredit insurance as a condition of obtaining this loan.

31 (4) — The creditor shall furnish the consumer with an exact copy of the agreement including any loan voucher, itemized statement of loan
32 charges, and disclosure statement after the agreement has been signed.

33 **Rule 120-1-14-.09 Prohibition of Blank Agreements Moved to and consolidated in [80-14-5-.03](#)**
34 **regarding closing, convenience, and other fees.**

35 Every agreement evidencing a consumer loan transaction shall be completed as to all essential provisions prior to the signing thereof by the
36 parties. No creditor shall induce, encourage or otherwise permit the consumer to sign an agreement containing blank spaces. Blank spaces
37 inapplicable to a transaction must be completed in a manner which reveals their inapplicability.

38 **Rule 120-1-14-.10 Payments, Due Dates, Regular Schedule Moved to and consolidated in [80-14-5-.03](#)**
39 **regarding closing, convenience, and other fees.**

40 With respect to every consumer loan transaction, the creditor shall, at the time of the transaction, furnish the consumer in writing: A statement
41 of maximum number of payments required, the amount of these payments and the exact due dates upon which each payment is due. The
42 maximum number of payments and the amount and date of these payments need not be separately listed if the payments are stated in terms
43 of a series of scheduled amounts.

44 **Rule 120-1-14-.11 Negotiable Instruments Prohibited Moved to and consolidated in [80-14-5-.03](#)**
45 **regarding closing, convenience, and other fees.**

1 No creditor shall take or otherwise arrange for the consumer to sign an instrument payable "to order" or "to bearer", other than a check, as
2 evidence of the credit obligation of the consumer in a consumer loan transaction.

3 **Rule 120-1-14-.12 Balloon Payments Prohibited Moved to and consolidated in [80-14-5-.03](#) regarding**
4 **closing, convenience, and other fees**

5 No creditor shall enter into an agreement which contains or anticipates a schedule of payments under which the last payment exceeds the
6 amount of any other payment by more than \$1.00

7 **Rule 120-1-14-.13 Discharge of Security Interests Moved to and consolidated in [80-14-5-.03](#) regarding**
8 **closing, convenience, and other fees**

9 When the consumer is indebted to a particular creditor for two or more consumer loans, any security interest held by such creditor for any
10 particular loan shall be discharged when the loan for which the security interest is held is paid irrespective of indebtedness to the creditor by
11 the consumer on other outstanding consumer loans. As a general rule, security interests in terms of property shall terminate as the debt
12 originally incurred with respect to each item is paid and in the case of the consolidation of two or more consumer loans or any circumstances in
13 which the general rule is not followed, the creditor may be required by the Commissioner to show that his conduct with respect to such loan
14 transactions was just, fair and reasonable. For the purposes of this Regulation, the renewal of a consumer loan shall not be deemed to be
15 payment thereof.

16 **Rule 120-1-14-.14 Use of Multiple Agreements Moved to and consolidated in [80-14-5-.03](#) regarding**
17 **closing, convenience, and other fees**

18 (1) — No creditor shall engage in any activity in connection with a consumer loan by use of multiple agreements or otherwise as a result of
19 which the creditor charges, contracts for, or receives any other or further amount in connection with a consumer loan than that authorized by
20 law for a single loan of a comparable amount.

21 (2) — No creditor shall split a consumer loan into separate agreements by a husband and wife if as a result thereof the creditor charges,
22 contracts for, or receives any other or further amount in connection therewith than as authorized by law for a single loan of a comparable
23 amount; provided, however, that the creditor may make a consumer loan to a husband and wife jointly and severally if such loans do not arise
24 out of substantially the same transaction.

25 **Rule 120-1-14-.15 Insurance Permitted Moved to and consolidated in [80-14-5-.03](#) regarding closing,**
26 **convenience, and other fees**

27 (1) — With respect to any consumer loan transaction, the creditor shall not require any insurance other than insurance covering the loss of
28 or damage to any property in which the creditor is given a security interest. Credit life and credit accident and sickness insurance if required by
29 the creditor, may be provided by the creditor through an insurer authorized to issue such insurance in this State.

30 (2) — If a creditor requires any insurance permitted under subsection (1) above in any consumer loan transaction, the debtor shall be
31 given written notice of the option of providing such insurance through an existing policy or a policy independently obtained and paid for by the
32 debtor. If the creditor requires credit life insurance, the creditor shall give the debtor written notice of the debtor's right to choose either level
33 term life insurance or reducing term life insurance coverage. The creditor may for reasonable cause before credit is extended decline the
34 insurance provided by the debtor.

35 **Rule 120-1-14-.16 Premiums Deleted. Any insurance-related requirements are the purview of the**
36 **Insurance Commissioner**

37 (1) — The charge to the consumer for any insurance shall not exceed the premium charged by the insurer and the premium of premiums
38 charged for such insurance shall be reasonable in relation to the amount and term of the credit and the risk covered and the benefits provided.

39 (2) — Upon prepayment, refinancing, or renewal of the debt before final maturity date the debtor shall be entitled to receive that portion
40 of the premiums on any insurance refunded by the insurance carrier.

41 **Rule 120-1-14-.17 Insurance on Property; Amounts; Terms Deleted. Any insurance-related**
42 **requirements are the purview of the Insurance Commissioner**

43 (1) — A creditor in a consumer loan transaction may not contract for or receive a charge for insurance against loss or damage to property
44 unless:

45 (a) — the insurance covers a substantial risk of loss of or damage to property related to the loan transaction;

46 (b) — the amount, terms, and conditions of insurance are reasonable in relation to the character and value of the property insured or to
47 be insured; and

- 1 (c) — the term of the insurance is reasonable in relation to the term of credit.
2 (2) — The term of the insurance is reasonable if it is customary and does not extend substantially beyond a scheduled maturity.
3 (3) — No household goods insurance may be written where the maximum premium approved by the Georgia Insurance Department is less
4 than one dollar (\$1.00).

5 **Rule 120-1-14-.18 Non-Judicial Enforcement Prohibited Moved to [80-14-5-.01](#) regarding the loan**
6 **contract, disclosures, and limitations.**

7 Notwithstanding any other provision of law, no term of an agreement shall constitute authorization for a creditor to take possession of
8 collateral by other than legal process unless such authorization is clearly, prominently and conspicuously disclosed to the consumer
9 immediately above the place for his signature on the loan agreement or as an addition to the "NOTICE TO CONSUMER" as defined in Section
10 .08(3) of this Regulation.

11 **Rule 120-1-14-.19 Practice of Law in Debt Collections Deleted. Unnecessary, as the unauthorized**
12 **practice of law is covered by the rules of the State Bar of Georgia.**

13 Unless a licensed attorney in this State, no debt collector shall engage in conduct deemed the practice of law. Without limiting the general
14 application of the foregoing, the following conduct will be deemed a violation of this section:

- 15 (a) — the performance of legal services, furnishing of legal advice or of false representation, direct or by implication, that any person is an
16 attorney;
17 (b) — the solicitation of assignments of claims for the purpose of suit or at the instigation of an attorney;
18 (c) — the institution of judicial proceedings on behalf of other persons except on an assigned claim;
19 (d) — any communication with debtors in the name of an attorney or upon stationery or other written matter bearing an attorney's name;
20 (e) — the use of any printed or other material which simulates or resembles a summons, warrant or other legal process; or
21 (f) — any demand for or payment of money constituting a share of compensation for services performed or to be performed by an
22 attorney in collecting a claim.

23 **Rule 120-1-14-.20 Threats or Coercion Moved to and consolidated in [80-14-5-.05](#) regarding debt**
24 **collection**

25 No debt collector shall collect or attempt to collect any money alleged to be due and owing by means of any threat (other than statements that
26 the creditor intends to exercise his legal rights), coercion or attempt to coerce. Without limiting the general application of the foregoing, the
27 following conduct will be deemed to violate this section:

- 28 (a) — the use, or express or implicit threat of use, of violence or other criminal means, to cause harm to the person, reputation or property
29 of any person;
30 (b) — the false accusation or threat to accuse any person falsely of fraud or any crime, or any conduct which, if true, would tend to
31 disgrace such other person, or degrade him to his neighbors or business associates, or in any way subject him to ridicule or contempt of society;
32 (c) — false accusations made to another person, including any credit reporting agency, that a consumer is willfully refusing to pay a just
33 debt, or the threat to so make false accusations;
34 (d) — the threat to sell or assign to another the obligation of the consumer with an attending representation or implication that the result
35 of such sale or assignment would be that the consumer would lose any defense to the claim or would be subjected to harsh, vindictive or
36 abusive collection attempts.
37 (e) — the threat to take any action prohibited by any law, rule or regulation governing the collector's conduct.

38 **Rule 120-1-14-.21 Harassment; Abuse Moved to and consolidated in [80-14-5-.05](#) regarding debt**
39 **collection**

40 No debt collector shall unreasonably oppress, harass, or abuse any person in connection with the collection of or attempt to collect any claim
41 alleged to be due and owing by that person or another. Without limiting the general application of the foregoing, the following conduct will be
42 deemed to violate this Section:

- 43 (a) — the use of profane or obscene language or language that is intended to unreasonably abuse the hearer or reader;

- 1 (b) _____ the placement of telephone calls without disclosure of the caller's identity or with the intent to annoy or harass or threaten any
2 person at the called number;
- 3 (c) _____ causing expense to any person in the form of long distance telephone tolls, telegram fees or other charges incurred by a medium of
4 communication, by concealment of the true purpose of the notice, letter, message or communication; or
- 5 (d) _____ attempting to make collections by personal visits or telephone calls between hours of 10:00 o'clock P.M. and 5:00 o'clock A.M.

6 **Rule 120-1-14-.22 Unreasonable Publication Moved to and consolidated in [80-14-5-.05](#) regarding debt**
7 **collection**

8 No debt collector shall unreasonably publicize information relating to any alleged indebtedness or debtor. Without limiting the general
9 application of the foregoing, the following conduct will be deemed to violate this Section:

- 10 (a) _____ the disclosure, publication, or communication of information relating to a consumer's indebtedness to any relative or family
11 member of the consumer, except through proper legal action or process;
- 12 (b) _____ the disclosure, publication, or communication of any information not a matter of public record relating to a consumer's
13 indebtedness to any other person:
- 14 1. _____ by publishing or posting any list of consumers, commonly known as "deadbeat lists",
- 15 2. _____ by advertising for sale any claim to enforce payment thereof,
- 16 3. _____ by the use of loud announcements, loudspeakers, or otherwise, at the home, place of employment or other location of the alleged
17 debtor, or
- 18 4. _____ in any other manner other than through proper legal process or proceeding.

19 **Rule 120-1-14-.23 Fraudulent, Deceptive or Misleading Representations Moved to and consolidated in**
20 **[80-14-5-.05](#) regarding debt collection**

21 No debt collector shall use any fraudulent, deceptive or misleading representation or means to collect or attempt to collect claims or to obtain
22 information concerning a consumer or consumers. Without limiting the general application of the foregoing, the following conduct will be
23 deemed to violate this Section:

- 24 (a) _____ the use of any name, while engaged in debt collection, other than the debt collector's true name;
- 25 (b) _____ the failure to clearly disclose in all communications made to collect or attempt to collect a claim or to obtain or attempt to obtain
26 information about a consumer, that the debt collector is attempting to collect a claim and that any information obtained will be used for that
27 purpose;
- 28 (c) _____ any false representation that the debt collector has in his possession information or something of value for the consumer, that is
29 made to solicit or discover information about the consumer;
- 30 (d) _____ the failure to clearly disclose the name and full business address of the person to whom the claim has been assigned for collection,
31 or to whom the claim is owed, at the time of making any demand for money;
- 32 (e) _____ any false representation or implication of the character, extent or amount of a claim against a consumer, or of its status in any legal
33 proceeding;
- 34 (f) _____ any false representation or false implication that any debt collector is vouched for, bonded by, affiliated with or is an
35 instrumentality, agent or official of this State or any agency of the Federal, State or local government;
- 36 (g) _____ the use or distribution or sale of any written communication which stimulates or is falsely represented to be a document authorized,
37 issued or approved by a court, an official, or any other legally constituted or authorized authority; or which creates a false impression about its
38 source, authorization or approval;
- 39 (h) _____ any representation that an existing obligation of the consumer may be increased by the addition of attorney's fees, investigation
40 fees, service fees or any other fees or charges when, in fact, such fees or charges may not legally be added to the existing obligation; or
- 41 (i) _____ any false representation or false impression about the status or true nature of or the services rendered by the debt collector or his
42 business.

43 **Rule 120-1-14-.24 Unfair or Unconscionable Means Moved to and consolidated in [80-14-5-.05](#)**
44 **regarding debt collection**

1 No debt collector shall use unfair or unconscionable means to collect or attempt to collect any claim. Without limiting the general application of
2 the foregoing, the following conduct will be deemed to violate this Section:

3 (a) ~~the seeking or obtaining of any written statement or acknowledgment in any form that specifies that a consumer's obligation is one~~
4 ~~incurred for necessities of life where the original obligation was not, in fact, incurred for such necessities;~~

5 (b) ~~the seeking or obtaining of any written statement or acknowledgment in any form containing an affirmation of any obligation by a~~
6 ~~consumer who has been declared bankrupt, without clearly disclosing the nature and consequences of such affirmation and the fact that the~~
7 ~~consumer is not legally obligated to make such affirmation;~~

8 (c) ~~the collection of or the attempt to collect any interest or other charge, fee, or expense incidental to the principal obligation unless~~
9 ~~such interest or incidental fee, charge or expense incidental to the principal obligation is expressly authorized by the agreement creating the~~
10 ~~obligation and legally chargeable to the consumer.~~

11 **Rule 120-1-14-.25 Use of Debt Collectors; Agreement Moved to and consolidated in [80-14-5-.05](#)** 12 **regarding debt collection**

13 Every creditor shall be presumed to know that any debt collector engaged by the creditor will be an agent of the creditor and will be acting for
14 and in behalf of the creditor in connection with the collection of any debt allegedly owed the creditor. Every creditor shall be absolutely
15 responsible for observance of these rules and regulations by the debt collector in connection with all activities of the debt collector so far as
16 they are taken in collecting or attempting to collect any debt allegedly owed to the creditor, and it shall be no defense to the creditor that any
17 violation complained of was not an activity of the creditor himself or itself. Before engaging any debt collector, a creditor shall require the debt
18 collector (or a responsible officer of the debt collector) to execute a sworn certificate under the penalty of perjury, that he has read and
19 understands each and all of these rules and regulations pertaining to debt collection and that each and all of them will be carefully observed in
20 the activities of the debt collector.

21 **Rule 120-1-14-.26 Penalties**

22 Any person who fails to comply with the requirements of this Regulation shall be subject to such penalties as may be appropriate under
23 Chapter 3 of Title 7 of the Official Code of Georgia Annotated and the Rules and Regulations promulgated thereunder.

24 **Rule 120-1-14-.27 Severability**

25 If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and
26 the applicability of such provisions to other circumstances shall not be affected thereby.

27 **Rule 120-1-15-.01 Statutory Authority**

28 This Regulation is made and promulgated by the Industrial Loan Commissioner pursuant to the authority set forth in Section 6 of the Georgia
29 Industrial Loan Act, Ga. L. 1955, p. 431, as amended.

30 **Rule 120-1-15-.02 Purpose**

31 The purpose of this Regulation is to establish guidelines and procedures for the calculation and collection of maintenance charges to be applied
32 to Consumer Loans issued pursuant to the Act.

33 **Rule 120-1-15-.03 Definitions Moved to and consolidated in [80-14-5.02](#) regarding maintenance** 34 **charges.**

35 The following terms shall have the following meaning as used in this Regulation unless a different meaning or construction is clearly required by
36 the context:

37 (a) "Act" shall mean the Georgia Industrial Loan Act as is now or hereafter amended.

38 (b) "Commissioner" shall mean the Commissioner of Insurance/Comptroller General Ex-Officio Georgia Industrial Loan Commissioner.

39 (c) "Earned Maintenance Charges" shall mean those maintenance charges which are applicable to those months in the term of the loan
40 contract in which the loan has been maintained by the licensee for a period of time of one (1) or more complete months. Such earned
41 maintenance charges shall be determined by multiplying the total number of months in the term of the loan contract in which the loan has
42 been maintained by the licensee by the amount of the maintenance charge authorized under the Act.

43 (d) "Licensee" shall mean a person who has been issued one or more licenses pursuant to the Georgia Industrial Loan Act and the
44 applicable Rules and Regulations of the Georgia Industrial Loan Department to conduct a business of making loans under the Georgia Industrial
45 Loan Act.

46 (e) "Maintenance Charges" shall mean charges by a licensee for maintaining a loan for a period of one or more months in accordance
47 with the provisions of the Act and the Rules and Regulations of the Georgia Industrial Loan Department.

1 (f) — "Month" shall mean a complete calendar month for all loans whose contract begins as of the first day of the calendar month. For all
2 other loans, the term month shall mean a period of thirty (30) consecutive calendar days and for the purpose of calculation of refunds under
3 the provisions of subsection (2) of Rule Number 120-1-15-.05 of this Regulation the term "month" shall mean thirty (30) consecutive calendar
4 days.

5 (g) — "Unearned Maintenance Charges" shall mean those maintenance charges applicable to the partial month in the term of the loan
6 contract in which the loan was maintained by the licensee for one (1) or more days but in which the loan contract was terminated prior to its
7 scheduled maturity date on a day other than the ending day of a month as defined in this Regulation.

8 **Rule 120-1-15-.04 Maintenance Charges; When Applicable; How Computed; How Collected Moved to**
9 **and consolidated in [80-14-5.02](#) regarding maintenance charges.**

10 (1) — A licensee may collect from the borrower of a consumer loan written pursuant to the Georgia Industrial Loan Act a monthly
11 maintenance charge as specified in the Act for each month that such loan is maintained by the licensee and such maintenance charges shall be
12 calculated and collected as follows:

13 (a) — The "total maintenance charges collectible" over the entire term of the consumer loan shall not exceed the amount obtained by
14 multiplying the total number of months in the term of the loan contract by the monthly maintenance charge specified in the Act except as
15 provided in subsection (c) of this Rule.

16 (b) — The "total maintenance charges collectible per installment" shall not exceed the amount obtained by dividing the "total
17 maintenance charges collectible" as calculated in (a) above by the total number of installments contemplated in the loan contract except as
18 provided in subsection (c) of this Rule.

19 (c) — A borrower shall not be required by a licensee to pay an amount of maintenance charges at any one time which exceeds the "total
20 amount of maintenance charges collectible per installment" as calculated in (b) above; provided that nothing contained herein shall be deemed
21 to prohibit a licensee from collecting any earned but uncollected portion of such maintenance charges due and owed by the borrower to the
22 licensee on previous installments of the same loan contract or from collecting any unearned maintenance charges which are otherwise due and
23 owed by the borrower to the licensee by virtue of the application of the refund method prescribed in Paragraph 120-1-15-.05 of these Rules
24 and Regulations.

25 (2) — In no event shall a licensee charge a maintenance charge to a borrower for any month in the term of the loan contract in which the
26 loan was not maintained by the licensee and in no event shall a licensee charge a maintenance charge for maintaining a loan contract past the
27 scheduled maturity date of the loan, regardless of the number of days such loan is maintained past the scheduled maturity date.

28 **Rule 120-1-15-.05 Refund of Unearned Maintenance Charges; Collection of Earned but Uncollected**
29 **Maintenance Charges; When Applicable; On What Basis Moved to and consolidated in [80-14-5.02](#)**
30 **regarding maintenance charges**

31 In the event that a discharge, refinancing, prepayment, acceleration, or any other event occurs which causes a consumer loan to terminate
32 prior to its scheduled maturity date, the licensee shall make a refund of the amount of any unearned maintenance charges applicable to the
33 loan contract. Such refunds of unearned maintenance charges shall be made in accordance with the Rule of 78's without regard to a minimum
34 refund provision.

35 **Rule 120-1-15-.06 Maintenance Charges not to be Considered In Calculation of Interest, Fees,**
36 **Insurance and Other Charges; No Acceleration Because of Failure to Pay Applicable Maintenance**
37 **Charges Moved to and consolidated in [80-14-5.02](#) regarding maintenance charges**

38 Maintenance charges shall be considered as an additional charge and:

39 (a) — Shall not be considered in the calculation of any interest, fees, or other charges otherwise authorized by law or regulations including
40 charges for any premiums for insurance written in connection with a consumer loan; provided, that such maintenance charges will be subject to
41 the provisions of O.C.G.A. § 7-3-14.

42 (b) — A borrower's failure to pay any maintenance charges applicable to the loan when due shall not be considered by a licensee as the
43 occurrence of an event which causes the outstanding unpaid balance of the loan contract to become immediately due and payable by virtue of
44 any acceleration clause or other similar clause or provision contained in the loan contract.

45 **Rule 120-1-15-.07 Required Disclosure of Maintenance Charges Moved to and consolidated in [80-14-](#)**
46 **[5.02](#) regarding maintenance charges**

47 If maintenance charges are to be charged and collected by a licensee on a consumer loan contract the licensee shall be required to:

48 (a) — Clearly, prominently, conspicuously and separately itemize in the loan contract:

- 1 1. _____ The face amount of the contract.
- 2 2. _____ The total amount of maintenance charges collectible under the loan.
- 3 3. _____ The total amount of each payment including maintenance charges.
- 4 4. _____ The total of payments including maintenance charges.
- 5 (b) _____ Provide space for and record the actual amounts of individual charges on the individual account card with respect to:
- 6 1. _____ The face amount of the contract.
- 7 2. _____ The total amount of maintenance charges collectible under the loan.
- 8 3. _____ The total amount of each payment including maintenance charges.
- 9 4. _____ The total of payments including maintenance charges.

10 **Rule 120-1-15-.08 Penalties**

11 Any person who fails to comply with the requirements of the Regulation shall be subject to such penalties as may be provided for by law and
12 the Rules and Regulations of the Georgia Industrial Loan Department.

13 **Rule 120-1-15-.09 Severability**

14 If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and
15 the applicability of such provisions to other circumstances shall not be affected thereby.

16 **Rule 120-1-16-.01 Statutory Authority**

17 This Regulation is made and promulgated by the Industrial Loan Commissioner pursuant to O.C.G.A. §§ 7-3-7 and 13-1-14.

18 **Rule 120-1-16-.02 Purpose**

19 The purpose of this Regulation is to establish procedures for the charging of Closing Fees related to the advance of money or the extension of
20 credit offered pursuant to Chapter 3 of Title 7 of the Official Code of Georgia Annotated.

21 **Rule 120-1-16-.03 Closing Fee Charges Moved to and consolidated in [80-14-5-.03](#) regarding closing,
22 convenience, and other fees.**

23 (a) _____ In addition to any other charges permitted for the advance of money or the extension of credit, a lender may collect a closing fee at
24 the time of the making a loan or extending credit in order to defray the costs of investigating and verifying a borrower's credit history,
25 residences, references, employment, or sources of income. Such closing fee may be for an amount up to 4 percent of the face amount of the
26 loan or credit extension but shall not be more than \$50.00. Such closing fee may be paid from the proceeds of the amount borrowed or added
27 to the principal amount of the loan or credit extension.

28 (b) _____ When any loan upon which a closing fee has been charged is prepaid in full by any means within 90 days of the date of the loan, the
29 lender shall refund or credit the borrower with a pro rata portion of the closing fee; provided, however, that in such event, the lender may
30 retain an amount of not more than \$25.00 from the collected closing fee. The pro rata portion of the closing fee shall be calculated on a daily
31 basis for the term of the loan. The lender shall not be required to refund closing fees if the calculated closing fee refund is less than \$25.00.

32 **Rule 120-1-16-.04 Licensee Eligibility to Charge Closing Fee Moved to and consolidated in [80-14-5-.03](#)
33 regarding closing, convenience, and other fees.**

34 No licensee under this chapter may collect a closing fee unless, prior to the advance of money or the extension of credit, such licensee
35 conducted an investigation or verification of the borrower's credit history, residences, references, employment, or sources of income.
36 Moreover, each licensee shall retain on file the procedures that the licensee uses to conduct such investigations and verifications.

37 **Rule 120-1-16-.05 Location of Closing Fee on Contract Moved to and consolidated in [80-14-5-.03](#)
38 regarding closing, convenience, and other fees.**

39 The amount of the closing fee shall be listed on the contract after the loan fees (8% and 4%) but before the maintenance charge fee.

40 **Rule 120-1-16-.06 Applicability of Usury Law Moved to and consolidated in [80-14-5-.03](#) regarding
41 closing, convenience, and other fees.**

42 Nothing contained in O.C.G.A. § 7-4-18 shall be construed to amend or modify the provisions of this Regulation.

1 Rule 120-1-16-.07 Severability
2 If any provision of this Regulation Chapter or the application thereof to any person or circumstance is for any reason held to be invalid by a
3 court of competent jurisdiction, the remainder of the Regulation Chapter or applicability of such provision to other persons or circumstances
4 shall not be affected.

5 Rule 120-1-17-.01 Statutory Authority
6 This Regulation is made and promulgated by the Industrial Loan Commissioner pursuant to O.C.G.A. §§ 7-3-7 and 13-1-15.

7 Rule 120-1-17-.02 Purpose
8 The purpose of this Regulation is to establish procedures for the charging of Convenience Fees related to the advance of money or the
9 extension of credit offered pursuant to Chapter 3 of Title 7 of the Official Code of Georgia Annotated.

10 **Rule 120-1-17-.03 Definitions Moved to and consolidated in [80-14-5-.03](#) regarding closing,**
11 **convenience, and other fees.**

12 The following terms shall have the following meaning as used in this Regulation unless a different meaning or construction is clearly required by
13 the context:

14 (a) "Actual Cost" means the amount paid by a third party for the processing of a payment made by electronic means. If a lender or
15 merchant is a subsidiary of an entity that processes payments made by electronic means, the parent entity shall be considered a third party.

16 (b) "Average Cost" means the cost calculated pursuant to 120-1-17-.05(a).

17

18 (c) "Convenience Fee" means a nonrefundable fee collected by a Licensee to offset the cost of receiving payment by electronic means.

19 (d) "Licensee" means a person to whom one or more licenses under Chapter 3 of Title 7 have been issued.

20 **Rule 120-1-17-.04 Convenience Fee Charge Moved to and consolidated in [80-14-5-.03](#) regarding**
21 **closing, convenience, and other fees.**

22 (a) In addition to any other charges permitted for the advance of money or the extension of credit, a lender may collect a convenience
23 fee at the time of receiving a payment.

24 (b) A Convenience Fee which is imposed pursuant to paragraph (a) must be an amount equal to or less than the Actual Cost or Average
25 Cost.

26 (c) A Convenience Fee shall not be charged unless the Licensee provides a direct payment option by check, cash, or money order in
27 which no fee is imposed.

28 (d) A Licensee shall not charge a Convenience Fee to any borrower unless the Convenience Fee is disclosed prior to the payment which
29 gives rise to the Convenience Fee.

30 **Rule 120-1-17-.05 Calculating Average Cost Moved to and consolidated in [80-14-5-.03](#) regarding**
31 **closing, convenience, and other fees.**

32 (a) A Licensee shall calculate the Average Cost by:

33 (1) Totaling the amount of money that a Licensee paid to third parties for the processing of electronic payments for the preceding
34 calendar year;

35 (2) Totaling the number of transactions where a Licensee processed an electronic payment in the preceding calendar year; and

36 (3) Dividing the sum derived in subparagraph (a)(1) by the sum derived in subparagraph (a)(2). The Average Cost shall be the quotient of
37 the calculation performed under this subparagraph.

38 (b) A Licensee shall maintain the Average Cost and the documentation used to make the calculation set forth in paragraph (a) at each
39 store where the Licensee charges the Average Cost. Such documentation shall be made available to the Commissioner, or his designee, upon
40 request.

41 Rule 120-1-17-.06 Applicability of Usury Law
42 Nothing contained in O.C.G.A. § 7-4-18 shall be construed to amend or modify the provisions of this Regulation.

1 Rule 120-1-17-.07 Severability

2 If any provision of this Regulation Chapter or the application thereof to any person or circumstance is for any reason held to be invalid by a
3 court of competent jurisdiction, the remainder of the Regulation Chapter or applicability of such provision to other persons or circumstances
4 shall not be affected.

5 Rule 120-1-18-.01 Statutory Authority

6 This Regulation is made and promulgated by the Industrial Loan Commissioner pursuant to O.C.G.A. §§ 7-3-7, 7-3-13, 7-3-14, and 7-3-15.

7 Rule 120-1-18-.02 Purpose

8 The purpose of this Regulation is to establish procedures for the use of unsolicited live checks for loans offered pursuant to the Georgia
9 Industrial Loan Act ("Act"), O.C.G.A. § 7-3-1 et seq.

10 **Rule 120-1-18-.03 Definitions Moved to and consolidated in [80-14-5-.04](#) regarding unsolicited live**
11 **checks.**

12 The following terms shall have the following meanings as used in this Regulation unless a different meaning or construction is clearly required
13 by the context:

14 (1) "Live check" means a negotiable check or other negotiable instrument that may be used by a consumer to activate a loan regulated
15 by the Act.

16 (2) As used in Rule 120-1-9-.01(l), "simulated check or other negotiable instrument" means any document that resembles but is not a
17 check or other negotiable instrument and is used for the purpose of soliciting a customer for a loan regulated by the Act.

18 **Rule 120-1-18-.04 Opportunity for a Hearing Deleted to align with processes for other actions**
19 **requiring Department approval.**

20 The Commissioner may after notice and the opportunity for a hearing as provided in Rule 120-1-2-.02: (a) disapprove of a licensee's application
21 to use an unsolicited live check; (b) rescind any prior approval of a licensee's use of an unsolicited live check if the Commissioner determines
22 the licensee has violated the Act or is non-compliant with the Rules and Regulations of the Commissioner; or (c) disallow all licensees from
23 using unsolicited live checks if the Commissioner determines that the risks and disadvantages associated with the practice outweigh the
24 convenience and advantage of the community.

25 **Rule 120-1-18-.05 Submission of Required Documents prior to Approval Moved to and consolidated in**
26 **[80-14-5-.04](#) regarding unsolicited live checks**

27 (1) No licensee shall offer an unsolicited live check to an individual unless the conditions contained within this Regulation Chapter and
28 the Act are met to the satisfaction of the Commissioner.

29 (2) The licensee must obtain prior written approval from the Commissioner of the format and content of the live check and the format
30 and content of the solicitation in accordance with Rule 120-1-2-.08.

31 (3) The licensee must maintain in its office its system for:

32 (a) preventing the offering of an unsolicited live check to an individual who is not credit worthy; and

33 (b) protecting the intended recipient of an unsolicited live check and the licensee in the event of the fraudulent conversion of the
34 unsolicited live check.

35

36 **Rule 120-1-18-.06 Requirements on the Unsolicited Live Check and in the Attached Materials Moved**
37 **to and consolidated in [80-14-5-.04](#) regarding unsolicited live checks**

38 Any use of an unsolicited live check must contain:

39 (1) the ZIP+4 code and the name of the county of the recipient in the address line of the live check;

40 (2) a check number or other unique identifier for the loan offered on the live check;

41 (3) the following statement, printed in 14 point size font boldface type on the face of the live check: "This is a loan.";

1 (4) _____ the following statements, printed on the face of the live check: "Cashing this check requires repayment of the loan plus potential
2 charges. Read all terms.";

3 (5) _____ the following statement, printed in 14 point size font boldface type at the top of the solicitation: "If you have a question or
4 complaint about this loan, please call the Office of the Industrial Loan Commissioner toll free at 1 800 656 2298."; and

5 (6) _____ the following statement, printed in the solicitation: "You have the right to file a written complaint with the licensee and with the
6 Industrial Loan Commissioner."

7 **Rule 120-1-18-.07 Restrictions Moved to and consolidated in [80-14-5-.04](#) regarding unsolicited live**
8 **checks**

9 (1) _____ The terms of the loan resulting from an unsolicited live check must comply with the Act and the rules and regulations of the
10 Commissioner.

11 (2) _____ The licensee may not sell or provide insurance or other ancillary products in conjunction with a loan obtained through an unsolicited
12 live check.

13 (3) _____ The licensee may not send an unsolicited live check to an individual who resides beyond the boundaries of the county for which the
14 license was issued.

15 **Rule 120-1-18-.08 Reports of Complaints or Fraud Moved to and consolidated in [80-14-5-.04](#) regarding**
16 **unsolicited live checks**

17 (1) _____ The licensee must report any written complaints concerning an unsolicited live check that it receives to the Industrial Loan
18 Department within five business days of receipt of the complaint.

19 (2) _____ The licensee must report any issue of suspected or confirmed fraud related to an unsolicited live check to the Industrial Loan
20 Department within five business days of knowledge thereof.

21 **Rule 120-1-18-.09 Severability**

22 If any provision of this Regulation Chapter or the application thereof to any person or circumstance is for any reason held to be invalid by a
23 court of competent jurisdiction, the remainder of the Regulation Chapter or applicability of such provision to other persons or circumstances
24 shall not be affected.

25

1

2

1 DRAFT GILA RULES

2

CHAPTER 80-5-1

3

4 SUPERVISION, EXAMINATION, REGISTRATION, AND INVESTIGATION FEES; ADMINISTRATIVE LATE FEES

5

6 80-5-1-.02 License and Supervision Fees for Check Cashers, Payment Instrument Sellers, Money Transmitters,
7 Representative Offices, Mortgage Lenders, Mortgage Brokers, and Installment Lenders; Due Dates.

8 80-5-1-.03(1)(b) Examination, Supervision, Registration, Application and Other Fees for Financial Institutions and Nonbank
9 Subsidiaries of Banks or Holding Companies.

10 80-5-1-.08 Levy, Collection, and Remittance of Tax on Interest Paid to Installment Lenders.

11 80-5-1-.09 Installment Loan Per Loan Fee.

12

13 **80-5-1-.02 License and Supervision Fees for Check Cashers, Payment Instrument Sellers, Money**
14 **Transmitters, Representative Offices, ~~and~~ Mortgage Lenders, ~~and~~ Mortgage Brokers, and Installment**
15 **Lenders; Due Dates.**

16

17 (1) Payment instrument sellers and money transmitters.

18

19 (a) The annual license fee is one thousand nine hundred dollars (\$1,900) for payment instrument
20 sellers and nine hundred dollars (\$900) for money transmitters.

21

22 (b) The annual renewal license fee is one thousand nine hundred dollars (\$1,900) for payment
23 instrument sellers and nine hundred dollars (\$900) for money transmitters and shall be due and must
24 be received by the Department on or before the first day of December of each year. Where the person
25 or corporation engages in both the sale of payment instruments and money transmission, the higher
26 of the two fees shall be due and payable. A licensee whose renewal application and annual license
27 renewal fee is not received by the Department on or before December 1 may be assessed a late fine
28 of three hundred dollars (\$300) and cannot be assured of renewal of its license prior to January 1.

29

30 (c) An additional non-refundable application investigation fee of two hundred fifty dollars (\$250) will
31 be assessed.

32

1 (d) Applicants for Department approval of a change in ownership, change in control, or change in
2 executive officer as set forth in O.C.G.A. § 7-1-688 shall pay a nonrefundable investigation,
3 application, and processing fee of five hundred dollars (\$500).

4
5 (2) Check Cashers.

6
7 (a) The annual license fee is three hundred dollars (\$300).

8
9 (b) The annual renewal license fee is three hundred dollars (\$300).

10
11 (c) An initial investigation and supervision fee shall be five hundred fifty dollars (\$550) for the first
12 year. It is not refundable, but if the license is granted it shall satisfy the annual fee for the first license
13 period.

14 (d) Initial and renewal license fees shall also include an additional thirty dollars (\$30) for the second
15 and each additional location, plus a fee in an amount as directed by the Department to cover the cost
16 of the required number of fingerprints for each individual background check.

17
18 (e) Annual renewal license fees shall be due and must be received by the Department on or before
19 the first day of December of each year. A licensee whose renewal application and annual renewal
20 license fee is not received by the Department on or before the first day of December of each year may
21 be assessed a late fine of three hundred dollars (\$300) and cannot be assured of renewal of its license
22 prior to January 1.

23
24 (f) Applicants for Department approval of a change in ownership, change in control, or change in
25 executive officer as set forth in O.C.G.A. § 7-1-705.1 shall pay a nonrefundable investigation,
26 application, and processing fee of five hundred dollars (\$500).

27
28 (3) Registrants of representative offices, trust production offices, business production offices, and loan
29 production offices shall file a registration statement, as prescribed by the Department, on or before
30 January 31 of each year. Registrants of international bank representative offices shall pay a registration
31 fee of one thousand dollars (\$1,000).

32
33 (4) Mortgage licensees and registrants.

1 (a) Lenders. The initial and renewal application and license fee for mortgage lenders shall be nine
2 hundred dollars (\$900). The initial fee of nine hundred dollars (\$900) covers the main office. Any
3 branch offices included in the initial application shall be assessed a fee of three hundred thirty dollars
4 (\$330) each. A fee of three hundred thirty dollars (\$330) will be assessed for each additional office
5 not initially registered, if such office is located in Georgia, and if mortgage lending activity is conducted
6 at the office. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also
7 apply. Subsequent renewal applications and license fees, must be received on or before December 1
8 of each year or the applicant may be assessed a late fine of three hundred dollars (\$300). A renewal
9 application and license fee not received on or before the December 1 renewal application deadline of
10 each year cannot be assured of issuance or renewal prior to January 1, at which time the license or
11 registration will expire. Applicants may not conduct a mortgage business without a current license or
12 registration.

13
14 (b) Brokers. The initial and renewal application and license fee for mortgage brokers shall be four
15 hundred dollars (\$400). The initial four hundred dollar (\$400) fee covers the main office. Any branch
16 offices located in Georgia shall be assessed a fee of three hundred thirty (\$330) each. Brokers include
17 loan processors. Processors are defined in Rule 80-11-4-.07. Such a processor may have a separate
18 main office and other branch offices where mortgage loan processing is done. The offices will be
19 treated the same as brokers' offices. An initial investigation fee of two hundred fifty dollars (\$250) per
20 applicant shall also apply. Subsequent renewal applications and license fees must be received on or
21 before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars
22 (\$300). A renewal application and license fee that is not received on or before the December 1
23 renewal application deadline of each year cannot be assured of issuance or renewal prior to January
24 1, at which time the license or registration will expire. Applicants may not conduct a mortgage
25 business without a current license or registration.

26
27 (c) Mortgage Loan Originators. The initial and renewal application and license fee for mortgage loan
28 originators shall be one hundred dollars (\$100). Subsequent renewal application fees must be
29 received by the Department on or before December 1 of each year or the applicant may be assessed
30 a late fine of one hundred dollars (\$100). A renewal application is not deemed received until all
31 required information, including a renewal fee in the appropriate amount and documentation showing
32 that the requisite continuing education hours have been obtained, has been provided by the licensee.
33 A renewal application, containing all of the required information along with the correct fees and proof
34 of required continuing education that is not received by the Department on or before the December
35 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January
36 1, at which time the license or registration will expire. Applicants may not conduct mortgage loan
37 origination activity without a current license.

38
39 (d) Lender Registrants. The initial and renewal application and registration fee for mortgage lenders
40 required to register but not be licensed with the Department shall be nine hundred dollars (\$900),
41 due on or before December 1 of each year. An initial investigation fee of two hundred fifty dollars

1 (\$250) per applicant shall also apply. Subsequent renewal applications and registration fees must be
2 received on or before December 1 of each year or the applicant may be assessed a late fine of three
3 hundred dollars (\$300). A renewal application and registration fee not received on or before the
4 December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior
5 to January 1, at which time the license or registration will expire. Applicants may not conduct a
6 mortgage business without a current license or registration.

7
8 (e) Broker Registrants. The initial and renewal application and registration fee for mortgage brokers
9 required to register but not be licensed with the Department shall be four hundred dollars (\$400),
10 due on or before December 1 of each year. An initial investigation fee of two hundred fifty dollars
11 (\$250) per applicant shall also apply. Subsequent renewal applications and registration fees must be
12 received on or before December 1 of each year or the applicant may be assessed a late fine of three
13 hundred dollars (\$300). A renewal application and registration fee not received on or before the
14 December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior
15 to January 1, at which time the license or registration will expire. Applicants may not conduct a
16 mortgage business without a current license or registration.

17 ~~(f) All license, investigation, registration, and supervision fees, late fees and assessed civil penalties~~
18 ~~must be paid prior to renewal of the annual license or registration, reinstatement of a license or~~
19 ~~registration, reapplication for a license or registration or any other approval from the Department.~~

20
21 (gf) All late fees collected by the Department, net of the cost of recovery, which cost shall include any
22 cost of hearing and discovery in preparation for hearing, shall be paid into the state treasury to the
23 credit of the general fund or may be paid as provided in O.C.G.A. § 7-1-1018(e).

24
25 (hg) Applicants for approval to acquire directly or indirectly ten percent (10%) or more of the voting
26 shares of a corporation or ten percent (10%) or more of the ownership of any other entity licensed to
27 conduct business as a mortgage lender and/or a mortgage broker under O.C.G.A. Article 13 (otherwise
28 called change of control) shall pay a nonrefundable investigation, application and processing fee of
29 five hundred dollars (\$500).

30
31 (ih) Application for an additional office of a licensee shall be accompanied by a nonrefundable fee of
32 three hundred thirty dollar (\$330), as provided in O.C.G.A. § 7-1-1006.

33
34 (5) Installment Lenders.

35
36 (a) The annual license fee is five hundred dollars (\$500).

1 (b) The annual license renewal fee is five hundred dollars (\$500) and must be received by the
2 Department on or before the first day of December of each year. A licensee whose renewal
3 application and annual license renewal fee is not received by the Department on or before December
4 1 may be assessed a late fine of three hundred dollars (\$300) and cannot be assured of renewal of its
5 license prior to January 1.

6
7 (c) An additional nonrefundable initial application investigation fee of two hundred fifty dollars (\$250)
8 will be assessed.

9
10 (d) Applicants for Department approval of a change in ownership, change in control, or change in
11 executive officer as set forth in O.C.G.A. § 7-3-32 shall pay a nonrefundable investigation, application,
12 and processing fee of five hundred dollars (\$500).

13
14 (e) An application for an additional location of a licensee shall be accompanied by a nonrefundable
15 fee of five hundred dollars (\$500). An annual renewal fee of five hundred dollars (\$500) per each
16 approved additional location shall be due and must be received by the Department on or before the
17 first day of December of each year.

18
19 (6) The Department may discount or surcharge all supervision or license fees herein provided to assure
20 funding of annual appropriations by the General Assembly.

21
22 (67) Any fees or charges imposed by the Nationwide Multistate Licensing System and Registry ("NMLSR")
23 shall be independent of any fees charged by the Department. Applicants, licensees, and registrants will
24 be responsible for any and all fees or charges imposed by NMLSR.

25
26 (8) All license, investigation, and supervision fees, late fees, fines, taxes owed to the Department, and
27 assessed civil penalties must be paid prior to renewal, reinstatement, or reapplication for a license or any
28 other approval from the Department.

29
30 Statutory Authority: O.C.G.A. §§ 7-1-41, 7-1-61, 7-1-683, 7-1-685, 7-1-702, 7-1-704, 7-1-716, 7-1-721, ~~7-~~
31 ~~1-1001~~, ~~7-1-1004~~, 7-1-1005, 7-3-20, and 7-3-32.

32
33 **80-5-1-.03(1)(b) Examination, Supervision, Registration, Application and Other Fees for Financial**
34 **Institutions and Nonbank Subsidiaries of Banks or Holding Companies.**

1 (1)(b) All other financial institutions, including credit card banks, bankers banks, central credit unions, and
2 related corporations not covered elsewhere in this Section, licensees under Article 4 (Payment Instrument
3 Sellers and Money Transmitters) and 4A (Check Cashers) of Chapter 1 of Title 7, licensees and registrants
4 under Article 13 of Chapter 1 of Title 7(Georgia Residential Mortgage Act), licensees under Chapter 3 of
5 Title 7 (Georgia Installment Loan Act), trust Departments, and financial service providers shall pay an
6 examination fee at the rate of \$65 per examiner-hour but not less than \$500 unless such examination is
7 conducted in conjunction with another ongoing examination in which case there shall be no minimum
8 charge. The above per hour charge shall be compensation for the work of Department examiners as well
9 as any necessary, qualified outside assistance. The examination fee shall be due and payable immediately
10 upon receipt of documentation from the Department setting forth the total amount of the fee. The \$500
11 minimum charge may be waived by the Commissioner or his/her designee when such charge clearly
12 exceeds the hours spent on an examination.

13

14 Statutory Authority: O.C.G.A. §§ 7-1-41; 7-1-61.

15

16 **80-5-1-.08 Levy, Collection, and Remittance of Tax on Interest Paid to Installment Lenders.**

17

18 (1) A tax shall be paid on a semiannual basis on all interest charged on loans made under Chapter 3 of
19 Title 7 (Georgia Installment Loan Act). A licensee may report such tax on interest either on a "cash basis"
20 or on an "accrual basis" as those terms are defined in subsection (b). However, once a licensee has made
21 such an initial election, such basis shall not be changed without the prior written approval of the
22 Commissioner, with any such approved change becoming effective at the commencement of the next
23 semiannual reporting period.

24

25 (2) A licensee shall report this tax by use of one of the following methods:

26

27 (a) "Cash Method" is based on actual interest charged during the month as reported in the daily cash
28 report. The charges of interest shall be increased by recoveries of interest on accounts previously
29 written off and the interest may be reduced by interest on accounts to be presently written off and
30 interest being refunded on accounts prepaid by cash, renewal and refinancing. The net interest is
31 subject to the tax.

32

33 (b) "Accrual method" is based principally on collections during the month of accounts under the Act.
34 An accurate percentage comparison of interest charged to gross loan is obtained by dividing the
35 outstanding loans at the beginning of the month into unearned interest at the beginning of the month.
36 The percent obtained is then multiplied by the collections for the month. The total obtained is subject
37 to be taxed.

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(3) The taxes payable under the provisions of subsection (a) shall be payable to the Department by the licensee on a semiannual basis. More specifically, such taxes for the period January 1 through June 30 of each year shall be remitted to the Department no later than the first business day of September of each year and such taxes for the period July 1 through December 31 of each year shall be remitted to the Department no later than the first business day of March of each year. A return indicating the amount of the tax, the method of calculation, and such other information as may be required by the Department shall accompany the taxes remitted. The taxes and the corresponding return shall be remitted to the Department through its online reporting and payment system. In the event that any licensee fails to timely remit taxes along with the corresponding return via the online reporting and payment system, the unpaid tax shall bear interest at the rate of one percent (1%) per month from the date the tax is due until the date the tax is paid, and there shall be added to the tax a penalty equivalent to twenty-five percent (25%) of the tax, or not less than five dollars (\$5). In the event that any licensee fraudulently remits the incorrect tax, there shall be added to the tax a penalty equivalent to fifty percent (50%) of the tax, or not less than five dollars (\$5).

Statutory Authority: O.C.G.A. §§ 7-3-16, 7-3-17, and 7-3-18.

1 CHAPTER 80-14-1

2

3 PLACE OF BUSINESS, ADVERTISING, AND OTHER REQUIREMENTS

4

5 80-14-1-.01 Place of Business Requirements; Convenience and Advantage of Community.

6 80-14-1-.02 Location Managers.

7 80-14-1-.03 Employee Background Checks; Covered Employees.

8 80-14-1-.04 Advertising Requirements.

9

10 **80-14-1-.01 Place of Business Requirements; Convenience and Advantage of Community.**

11

12 (1) A licensee shall not engage in the business of installment lending at a location in this state unless the
13 licensee has first received written approval from the Department.

14

15 (2) The "main office" is the physical location indicated on the license application or amendments thereto
16 as the principal place of business, where the books and records are kept.

17

18 (3) A "branch" shall be any physical location, other than the principal place of business, where a licensee
19 engages in the business of installment lending.

20

21 (4) For the main office and each proposed branch office, an applicant or licensee shall provide information
22 establishing that approval of the proposed location will serve the convenience and advantage of the
23 community. Such information shall include but is not limited to the following:

24

25 (a) An explanation as to whether the community will benefit from the applicant or licensee operating
26 in the location;

27

28 (b) An explanation as to whether the community is presently offered this service and an estimate of
29 the number of people not presently served;

30

31 (c) Statistics related to the growth of the community in relation to each of the following: population,
32 retail stores, industry, industry payroll, retail sales, and income per capita;

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(d) A projection of the growth of the proposed location for the first three years of operation, including the number of accounts, outstanding amounts, and source of customers;

(e) A diagram of the immediate community indicating the location of any currently operating installment loan licensees, sales finance companies, banks, credit unions, savings and loan institutions, and the proposed office; and,

(f) Other information relevant to the Department’s consideration of the proposed location.

(5) Factors to be considered by the Department in making a determination as to whether a proposed location will serve the convenience and advantage of the community include but are not limited to the following:

(a) Whether the service offered will be responsive to the needs and convenience of borrowers and conducive to economic progress;

(b) The current economic condition or growth potential of the market of the proposed location, such that there does or will exist a volume of business for which the installment can realistically compete, what portion of that business the installment lender could acquire, and whether that portion is sufficient to generate a profit;

(c) The lending opportunity for the proposed location as indicated by population, employment, residential and commercial construction, sales, company payrolls, businesses established, geographic and environmental restrictions to further development, and other relevant indicators; and

(d) Whether the proposed location will result in a better matching of source and needs of funds, thereby providing the basis for improved customer service.

(6) Notwithstanding Paragraph 4 of this rule, the Department may waive the requirement for information regarding the convenience and advantage of the community if a licensee proposes to relocate an existing approved main office or branch office within the same community; however, the proposed relocation remains subject to prior written approval by the Department.

1 (7) A location, including a personal residence, shall be considered a branch of a licensee requiring
2 approval for purposes of the Georgia Installment Loan Act ("Act") if any of the following conditions are
3 met:

4
5 (a) The location address is printed on or contained in letterheads, business cards, announcements,
6 advertisements, solicitations for business, flyers, brochures, or the like;

7
8 (b) Georgia consumers are received at the location or are directed to deliver any information by any
9 means to the location;

10
11 (c) Loan files or any other books and records required by the Act or Department rules are located at
12 the location; or

13
14 (d) The licensee directly or indirectly reimburses for rent, utility bills or other expenses incurred for
15 use of a location as a branch.

16
17 (8) Notwithstanding Paragraph (4) of this rule, a location, including a personal residence, will not be
18 deemed a branch and will be required to have its own license if:

19
20 (a) It is a franchise arrangement;

21
22 (b) It is separate entity that may be referred to as a "net branch," and it is an independent business
23 or installment loan operation which is not under the direct control, management, supervision and
24 responsibility of the licensee;

25
26 (c) The licensee is not the lessee or owner of the branch and the branch is not under the direct and
27 daily ownership, control, management, and supervision of the licensee;

28
29 (d) All employees, including the branch manager, do not meet the requirements for exemption from
30 licensure in O.C.G.A. Section 7-3-4(b)(5) and the rules of the Department;

31

1 (e) All assets and liabilities of the branch are not assets and liabilities of the licensee and income and
2 expenses of the branch are not income and expenses of the licensee and are not properly accounted
3 for in the financial records and tax returns of the licensee; or

4
5 (f) All practices, policies, and procedures, including but not limited to those relating to employment
6 and operations, are not originated and established by the licensee and are not applied consistently to
7 the main office and all branches.

8
9 (9) An unstaffed storage facility shall not constitute a branch.

10
11 (10) The mailing address of a licensee may be different from the main office address but shall be the
12 address where the Department is authorized to send all correspondence, official notices and orders. The
13 licensee is responsible for keeping the Department informed of any changes in this mailing address.

14
15 (11) Each licensee must keep the Department informed of the name, telephone number, and email
16 address of the current contact person for consumer complaints, who is available and has authority to
17 investigate and resolve questions and complaints from consumers which have come to the Department
18 for resolution.

19
20 Statutory Authority: O.C.G.A. §§ 7-3-22, 7-3-32

21
22
23 **80-14-1-.02 Location Managers.**

24
25 (1) A "location manager" shall mean an individual who supervises daily activities in Georgia of a licensee,
26 whether at a main office or branch as defined in Rule 80-14-1-1.01, and regardless of job title.

27
28 (2) No individual shall be permitted to manage a location in Georgia without being approved by the
29 Department as a location manager. A location manager may be put in place subject to Departmental
30 approval, but the Department must receive a complete application for approval within 15 calendar days
31 of the placement. An individual shall have at least one year's prior experience working for a licensee under
32 the Act prior to becoming a location manager. No individual may serve as the location manager of more
33 than one location of a licensee.

1 (3) The Department shall conduct a background check, obtain a credit report, and require such other
2 pertinent information to satisfy itself that the location manager will operate the location responsibly and
3 in compliance with the laws and rules of this state.

4
5 Statutory Authority: O.C.G.A. § 7-3-32.

6
7
8 **80-14-1-.03 Employee Background Checks; Covered Employees.**

9
10 (1) As required by O.C.G.A. § 7-3-42(d), applicants and licensees must complete background checks on all
11 covered employees, as defined in O.C.G.A. § 7-3-3(2). Employees of an applicant or licensee who are not
12 engaged in the installment loan business are not covered employees. Background checks on all covered
13 employees must be completed and found satisfactory by the applicant or licensee prior to the initial date
14 of hire.

15
16 (2) For purposes of O.C.G.A. § 7-3-42, an employee of a licensee is engaged in the installment loan
17 business if he or she performs any of the following duties:

18
19 (a) taking a loan application or offering or negotiating terms of an installment loan;

20
21 (b) entering, deleting, or verifying any information on an installment loan related document; or,

22
23 (c) communicating with a consumer regarding an installment loan, excluding communication by a
24 third party for purposes of debt collection.

25
26 (3) Applicants' and licensees' requests for background checks are handled by the Georgia Crime
27 Information Center (GCIC) following their rules and regulations as well as O.C.G.A. § 35-3-34. Background
28 checks must be full GCIC checks following that agency's rules and regulations and must not have any time
29 period limitations or restrictions in the search criteria. Any fees charged by GCIC for processing
30 background checks must be paid by the applicant or licensee. The background checks may be arranged
31 for through a local law enforcement office, so long as the background check is done by GCIC.

32
33 Statutory Authority: O.C.G.A. § 7-3-3 and 7-3-42.

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80-14-1-.04 Advertising Requirements.

Any advertisement of an installment loan that is subject to regulation under the Georgia Installment Loan Act (“Act”) and that is made, published, disseminated or circulated in this state shall comply with the requirements set forth below.

(a) Advertisements for installment loans shall not be false, misleading, or deceptive.

(b) All solicitations or advertisements, including business cards and websites, for installment loans disseminated in this state by persons required to be licensed under the Act shall contain the licensee’s name, which shall conform to a name on record with the Department, and unique identifier, which shall clearly indicate that the number was issued by the Nationwide Multistate Licensing System and Registry.

(c) For purposes of this Rule, "advertisement" means material used or intended to be used to induce the public to apply for an installment loan. Such term shall include any printed or published material, audio or visual material, website, or descriptive literature concerning an installment loan subject to regulation under the Act, whether disseminated by direct mail, newspaper, magazine, radio or television broadcast, electronic, billboard or similar display. The term advertisement shall not include promotional materials containing fifteen words or fewer relating to the installment loan business of the entity which material does not contain references to a specific rate or product, such as balloons, hats, pencils or pens, and calendars.

(d) Every installment lender required to be licensed shall maintain a record of samples of all of its advertisements, including commercial scripts of all radio and television broadcasts, for examination by the Department.

(e) No licensee shall use any advertising in the form of a simulated check or other negotiable instrument. "Simulated check or other negotiable instrument" means any document that resembles but is not a check or other negotiable instrument and is used for the purpose of soliciting a customer for an installment loan.

Statutory Authority: O.C.G.A. §§ 7-3-10, 7-3-30(a)(3).

1 CHAPTER 80-14-2

2
3 BOOKS AND RECORDS

4
5 80-14-2-.01 Location Requirement; Examinations.

6 80-14-2-.02 Minimum Requirements for Books and Records.

7 80-14-2-.03 Installment Loan Transaction Journal.

8 80-14-2-.04 Installment Loan Files.

9
10
11 **80-14-2-.01 Location Requirement; Examinations.**

12
13 Each installment lender required to be licensed under the Georgia Installment Loan Act shall maintain a
14 principal place of business on record with the Department at which its books and records are maintained
15 and which is accessible to the Department for examination during normal business hours. Records
16 required to be maintained under this rule may be maintained in a photographic, electronic, or other
17 similar format at a central location within or outside the State of Georgia provided specific records can be
18 transmitted to a location designated by the Department within ten (10) days of the Department's request.
19 The Department may examine any person that purports to satisfy the exemption from licensure set forth
20 in O.C.G.A. § 7-3-4 to verify that the person qualifies for the exemption from licensure.

21
22 Statutory Authority: O.C.G.A. §§ 7-3-30 and 7-3-40.

23
24 _____
25 **80-14-2-.02 Minimum Requirements for Books and Records.**

26
27 Each licensee shall maintain the following books, accounts and records:

28
29 (a) Copies of all disclosure documents required by Rule Chapter 80-14-5;

30
31 (b) Samples of advertisements as required by Rule 80-11-1-.04;

- 1 (c) Copies of all written complaints by customers and written records of disposition;
2
- 3 (d) Copies of examination reports prepared by any agency, division or corporate instrumentality of the
4 United States, the State of Georgia or any other state, which reports pertain to the installment lending
5 business of the licensee or registrant and are not prohibited from being disclosed to the Department by
6 state or federal law;
7
- 8 (e) Copies of reports required to be prepared and/or submitted by the licensee to any agency, division,
9 or corporate instrumentality of the United States, the State of Georgia or any other state, which reports
10 pertain to the installment lending business of the licensee and are not prohibited from being disclosed to
11 the Department by state or federal law;
12
- 13 (f) Copies of all payroll records, including federal and state withholding tax forms, W-2's, and 1099 forms
14 filed with the Internal Revenue Service by the licensee or its agent on behalf of individuals employed by
15 the licensee in the installment lending business of the licensee;
16
- 17 (g) A cash book or daily report for each approved location in which all receipts and disbursements of any
18 amount shall be entered. Separate spaces shall be provided for amounts received or charged as interest,
19 fees, insurance premiums, recording fees and any other receipts or disbursements made by the licensee.
20 All such entries shall be made on the exact date on which they occur. This cash book shall be balanced
21 daily. This paragraph shall not prevent licensees from closing their books in the late afternoon, commonly
22 known as providing for "late drawer" payments, so long as entries of loans and collections are made on
23 their exact date.
24
- 25 (h) A general ledger which shall be posted at least monthly containing all assets, liabilities, capital, and
26 income and expense accounts. If licensee has a general ledger reserve account for bad debts, all recoveries
27 or collections on accounts previously charged off shall be credited to this account.
28
- 29 (i) All bank statements and bank reconciliations records which pertain to the installment lending business
30 of the licensee;
31
- 32 (j) An audit of its books and records performed at least annually by independent public accountants in
33 accordance with generally accepted auditing standards.
34

1 (k) Copies of all credit report bills received from all credit reporting agencies for the most recent five-year
2 period;

3

4 (l) Employee file for each employee. The employee file must contain all documents related to hiring the
5 employee, including criminal background check, date employment began, and a print out or screenshot
6 confirming that the Department's public records were reviewed on NMLS Consumer Access to verify
7 eligibility for employment with such review of the Department's public records taking place prior to the
8 date of hire; and

9

10 (m) Copies of all reports required to be filed with the Department or the Nationwide Multistate Licensing
11 System and Registry, including any amended reports, for the previous five (5) years and all related work
12 papers and supporting documentation that support the accuracy of the information contained in such
13 reports; and

14

15 (n) Copies of any required notifications required to be made to the Department pursuant to O.C.G.A. § 7-
16 3-31(a) and (b) and supporting documentation.

17

18 Statutory Authority: O.C.G.A. §§ 7-3-30 and 7-3-51.

19

20

21 **80-14-2-.03 Installment Loan Transaction Journal.**

22 _____

23 (1) Each licensee shall maintain a journal of installment loan transactions which shall include, at a
24 minimum, the following information:

25

26 (a) Full name of borrower and any co-borrowers;

27

28 (b) Loan Number;

29

30 (c) Date of loan;

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32 (d) Amount of loan; and

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(e) Due date of loan.

(2) A complete installment loan transaction journal shall be maintained in the principal place of business. The journal shall be kept current. Entries shall be organized by chronological order by date of loan. Records may be kept at an approved branch office but the principal place of business must have a current journal updated no less frequently than every seven (7) days. The failure to initiate an entry to the journal within seven (7) business days from the date of the occurrence of the event required to be recorded in the journal shall be deemed a failure to keep the journal current.

Statutory Authority: O.C.G.A. §§ 7-3-30 and 7-3-51.

80-14-2-.04 Installment Loan Files.

(1) Each installment lender shall maintain a loan file for each installment loan borrower. If there are multiple borrowers on one loan, the loan documents shall be maintained in the loan file for the primary borrower. The files shall be maintained in an alphabetical or numerical sequence in the principal place of business or in each approved branch office where installment loans are made.

(2) Each loan file shall contain the following:

(a) Copy of the loan application;

(b) Copy of credit report if the credit report is pulled or ordered by the licensee;

(c) Copy of the signed loan agreement;

(d) Copy of all notes, bills or sale, or other evidence of indebtedness or security;

(e) Copy of the signed acknowledgement of written disclosure statement as required by Rule 80-14-5-.01(6)

1 (f) A separate account record for each installment loan transaction or renewal thereof, which shall
2 include the following information:

3
4 (i) Name and address of licensee;

5
6 (ii) Loan number;

7
8 (iii) Date of loan;

9
10 (iv) Name and address of each borrower and co-maker or endorser, if any;

11
12 (v) Brief description of security, if any;

13
14 (vi) Actual amounts of individual charges shall be shown separately for interest and fees.;

15
16 (vii) Amount of loan;

17
18 (viii) If a renewal, the loan number of the previous loan;

19
20 (ix) Terms of repayment;

21
22 (x) Payments received showing:

23
24 A. Date of payment.

25
26 B. Amount paid on account.

27
28 C. Remaining balance.

29

1 D. Date to which account is paid.

2

3 E. Any late charge collected, and date of collection;

4 _____

5 (xi) Date of final payment on loan or expiration; and

6 _____

7 (xii) Record of the amount, date, and reason for any refunds.

8

9 (3) No erasures or deletions whatsoever shall be made on the payments received section of the account
10 record. In the event an error is made manually, a line shall be drawn through the incorrect entry and the
11 correct entry made above or below and initialed by the location manager. In the event an error is made
12 electronically, a corrected entry shall be added to the record by the location manager.

13

14 (4) The location manager shall verify each transaction in each account record as to mathematical
15 correctness, fees, charges, renewal information, former borrower information, sales finance conversions,
16 dual loan information, and refund information. After verifying the correctness of these entries, the
17 location manager shall, on the day of such transaction, either initial the manual account record or approve
18 the electronic account record.

19

20 Statutory Authority: O.C.G.A. §§ 7-3-30 and 7-3-51.

21

22

1 CHAPTER 80-14-3

2
3 ADMINISTRATIVE FINES AND PENALTIES

4
5 80-14-3-.01 Administrative Fines.

6
7 80-14-3-.01 Administrative Fines.

8
9 (1) The Department establishes the following fines and penalties for violation of the Georgia Installment
10 Loan Act ("Act") or its rules. Except as otherwise indicated, these fines and penalties apply to any person
11 who is acting as an installment lender and any licensee under the Act. The Department, at its sole
12 discretion, may waive or modify a fine based upon the financial resources of the person, gravity of the
13 violation, history of previous violations, and such other facts and circumstances deemed appropriate by
14 the Department.

15
16 (2) All fines levied by the Department are due within thirty (30) days from the date of assessment and
17 must be paid prior to renewal of the annual license, reapplication for a license, or any other activity
18 requiring Departmental approval.

19
20 (3) In addition to any fines levied by the Department, the recipient of the fine may be subject to additional
21 administrative actions for the same underlying activity.

22
23 (4) Operating Without Proper License. Any person who acts as an installment lender prior to receiving a
24 current license required under the Act, or who acquires an **unlicensed** installment loan business, or during
25 the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a
26 fine of one thousand dollars (\$1,000) per day.

27
28 (5) Failure Obtain Approval from the Department of Change in Ownership **or** Change in Control. Any
29 licensee or other person who fails to obtain the Department's prior written approval of a change in
30 ownership through acquisition or other change in control or change in executive officer resulting from
31 such change in ownership or change in control of the licensee in compliance with O.C.G.A. § 7-3-32 shall
32 be subject to a fine of one thousand dollars (\$1,000).

33

1 (6) Failure to Notify of Change in Executive Officers. Any licensee or other person who fails to timely notify
2 the Department of a change in executive officer not resulting from a change in control or ownership in
3 compliance with O.C.G.A. § 7-3-32 and shall be subject to a fine of one thousand dollars (\$1,000).

4
5 (7) Unapproved Locations. In addition to the application, fee, and approval requirements of O.C.G.A. § 7-
6 3-32(a), any licensee who operates an unapproved branch office shall be subject to a fine of five hundred
7 dollars (\$500) per unapproved branch office operated.

8
9 (8) Location Manager Approval. Any licensee shall be subject to a fine of five hundred dollars (\$500) for
10 operation of a location with an unapproved location manager. No such fine shall be levied while
11 Department approval is pending if timely application for approval is made pursuant to Rule 80-14-1-.02.

12
13 (9) Felons. Any licensee that hires or retains a covered employee who is a felon as described in O.C.G.A.
14 § 7-3-42(a), when such covered employee has not complied with the remedies provided for in O.C.G.A. §
15 7-3-42(a) for each conviction before such employment, shall be subject to a fine of five thousand dollars
16 (\$5,000) for each such covered employee.

17
18 (10) GCIC Background Checks on Employees. Any licensee that does not obtain a Georgia Crime
19 Information Center ("GCIC") criminal background check on each covered employee prior to the initial date
20 of hire or retention shall be subject to a fine of one thousand dollars (\$1,000) per occurrence. Proof of the
21 required GCIC criminal background check must be retained by the licensee until five years after
22 termination of employment by the licensee. Notwithstanding compliance with this requirement to
23 perform a GCIC criminal background check prior to employment, failure to maintain criminal background
24 checks as required will result in a fine of one thousand dollars (\$1,000) for each covered employee for
25 which the licensee is missing this documentation.

26
27 (11) Disqualified Persons. Any licensee who employs any person subject to a final cease and desist order
28 or license revocation within five (5) years of the date such person was hired pursuant to O.C.G.A. § 7-3-
29 43(d) and (e) shall be subject to a fine of five thousand dollars (\$5,000) per such employee.

30
31 (12) Failure to Review Public Records Prior to Hiring. Any licensee who fails to examine the Department's
32 public records on NMLS Consumer Access to determine if a job applicant is subject to an order set forth
33 in O.C.G.A. § 7-3-43(d) or (e) prior to hiring such individual shall be subject to a fine of one thousand
34 dollars (\$1,000) for each employee on whom the public records were not timely examined.

35
36 (13) Prohibited Acts. Any licensee who violates the provisions of O.C.G.A. § 7-3-43 shall be subject to a
37 fine of one thousand dollars (\$1,000) per violation or transaction that is in violation of O.C.G.A. § 7-3-43.

1

2 (14) Failure to Timely Report Certain Events. Any licensee who fails to report any of the events
3 enumerated in O.C.G.A. § 7-3-31(a), shall be subject to a fine of one thousand dollars (\$1,000) per act not
4 reported in writing to the Department within 10 days of knowledge of such act.

5

6 (15) Failure to Report. Any licensee who fails to provide required reports as established by the
7 Department and file the reports with the Department or the Nationwide Multistate Licensing System and
8 Registry as specified by the Department within the designated time periods shall be subject to a fine of
9 one thousand dollars (\$1,000) for each such occurrence.

10

11 (16) Failure to Timely Disclose Change in Affiliation of Natural Person that Executed Lawful Presence
12 Affidavit and Submission of New Affidavit. Any licensee that fails to disclose that the owner or executive
13 officer that executed the lawful presence affidavit is no longer in that position with the licensee within
14 ten (10) business days of the date of the event necessitating the disclosure, shall be subject to a fine of
15 one thousand dollars (\$1,000). Any licensee that fails to submit a new lawful presence affidavit from a
16 current owner or executive officer within ten (10) business days of the owner or executive officer that
17 executed the previous lawful presence affidavit no longer being in that position with the licensee, shall be
18 subject to a fine of one thousand dollars (\$1,000) per day until the new affidavit is provided.

19

20 (17) Failure to Timely Update Information on the Nationwide Multistate Licensing System and Registry.
21 Any licensee that fails to update its information on the Nationwide Multistate Licensing System and
22 Registry ("NMLSR"), including, but not limited to, amendments to any response to disclosure questions,
23 within ten (10) business days of the date of the event necessitating the change, shall be subject to a fine
24 of one thousand dollars (\$1,000) per occurrence. In addition, the failure of a control person of a licensee
25 to update the individual's information on the NMLSR, including, but not limited to, amendments to any
26 response to disclosure questions by the control person, within ten (10) business days of the date of the
27 event necessitating the change, shall subject the licensee to a fine of one thousand dollars (\$1,000) per
28 occurrence.

29

30 (18) Failure to Submit to Examination or Investigation. Any licensee that refuses to permit an investigation
31 or examination of books, accounts, and records after a reasonable request by the Department shall be
32 subject to a fine of five thousand dollar (\$5,000). Refusal shall require at least two attempts by the
33 Department to schedule an examination or investigation.

34

35 (19) Books and Records. If the Department, in the course of an examination or investigation, finds that a
36 licensee has failed to maintain its books and records according to the requirements of O.C.G.A. § 7-3-30
37 and Rule Chapter 80-14-2, such licensee shall be subject to a fine of one thousand dollars (\$1,000) for
38 each violation of a books and records requirement listed in Rule Chapter 80-14-2.

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(20) Maintenance of Loan Files. Any licensee who fails to maintain a loan file for each installment loan borrower as required by Rule 80-14-2-.04 or who fails to have all required documents in such file shall be subject to a fine of one thousand dollars (\$1,000) per file not maintained or not accessible, or per file not containing required documentation.

(21) Failure to Provide Loan Contract. In the event a licensee does not provide a consumer with a copy of the loan contract or written itemized statement as required by O.C.G.A. 7-3-15 and Rule 80-14-5-.01, the licensee shall be subject to a fine of one thousand dollars (\$1,000) per transaction where the loan contract or itemized statement was not provided.

(22) Failure to Provide Receipt. In the event a licensee does not provide a consumer with a written receipt as required in Rule 80-14-5-.01(7), the licensee shall be subject to a fine of one hundred dollars (\$100) per payment for which the receipt was not provided.

(23) Failure to Post Required License. Any licensee that fails to post a copy of its license in each location where an installment loan business is conducted shall be subject to a fine of five hundred dollars (\$500) for each instance of non-compliance.

(24) Advertising. Any licensee who violates the advertising requirements in O.C.G.A. § 7-3-10 or Rule 80-14-1-.04 shall be subject to a fine of five hundred dollars (\$500) for each violation of law or rule.

(25) Unsolicited Live Checks. Any licensee who offers an unsolicited live check in a manner that violates any of the conditions of Rule 80-14-5-.04 shall be subject to a fine of one thousand dollars (\$1,000) for each occurrence.

(26) Debt Collection Practices. In the event any licensee, or employee or agent thereof, willfully uses any unreasonably collection tactics in violation of O.C.G.A. § 7-3-33 or Rule 80-14-5-.05, such licensee shall be subject to a fine of five hundred dollars (\$500) per occurrence.

(27) Consumer Complaints. Any licensee who fails to respond to a written consumer complaint or fails to respond to the Department regarding a consumer complaint, within the time periods specified in the Department's correspondence to such licensee, shall be subject to a fine of one thousand dollars (\$1,000) for each occurrence.

1 [Statutory Authority: O.C.G.A. §§ 7-3-45 and 7-3-46.](#)

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1 CHAPTER 80-14-4

2
3 LICENSING

4
5 80-14-4-.01 Licensing Requirements; Exemptions; Term for Bond.

6 80-14-4-.02 Restrictions on Employment and Licensing.

7 80-14-4-.03 Verification of Lawful Presence Affidavit.

8 80-14-4-.04 Nationwide Multistate Licensing System and Registry.

9 80-14-4-.05 Transition to Department.

10
11 80-14-4-.01 Licensing Requirements and Exemptions.

12
13 (1) The exemption from licensing provided pursuant to O.C.G.A. § 7-3-4(5) to an employee of a licensee
14 or exemptee applies only to natural persons who meet all of the following criteria:

15
16 (a) An employee must be employed by only one licensee or exemptee and work exclusively for that
17 person;

18
19 (b) An employee may not advertise, solicit, offer, or make installment loans for anyone else while
20 claiming the exemption;

21
22 (c) An employee's procedures and activities must be supervised by the licensee or exemptee on a daily
23 basis, and the licensee or exemptee is responsible for the actions of such employees. This requirement
24 is intended to make it clear that employers control and are accountable for the actions of their
25 employees; and

26
27 (d) An employee may not be paid or compensated for performance of installment lending activity as
28 an independent contractor or on a 1099 basis.

29
30 (2) A natural person shall not be required to obtain a license under the Georgia Installment Loan Act if
31 such natural person is not in the business of making installment loans or employed by a licensee or
32 exemptee, makes five (5) or fewer installment loans in any one calendar year, and uses his or her own
33 funds to make such loans for his or her own investment. Any unlicensed natural person who makes

1 installment loans without meeting all of the foregoing requirements is in violation of O.C.G.A. § 7-3-4 and
2 may be subject to an order to cease and desist.

3
4 Statutory Authority: O.C.G.A. §§ 7-3-4 and 7-3-45.

5
6 **80-14-4-.02 Restrictions on Employment and Licensing.**

7
8 (1) No person who has been an owner, director, trustee, or executive officer of a licensee that has had its
9 license revoked, denied, or suspended, may perform any of those roles at another licensee for five years
10 from the date of the final order.

11
12 (2) Felony convictions; restrictions on the employee and the licensee:

13
14 (a) Licensees are responsible for ensuring that no convicted felons are covered employees or direct
15 the affairs of their business.

16
17 (b) O.C.G.A. § 7-3-42 provides for remedies to cure a felony conviction. These remedies must be
18 completed and in place prior to employment. Hiring or continuing to employ a covered employee with
19 an unremedied felony conviction subjects a licensee to revocation of its license.

20
21 (c) For purpose of O.C.G.A. §§ 7-3-31 and 7-3-42, “agent” means any person who appears to the
22 public or to a regulatory agency as acting for or on behalf of a licensee to the extent the licensee is
23 engaged in the business of making installment loans.

24
25 (d) If a licensee discovers that a covered employee or director/officer is a felon at the time of hire or
26 subsequently becomes a felon and has not satisfactorily cured the conviction, the violation of O.C.G.A.
27 § 7-3-42 must be immediately corrected or the license will be subject to revocation. Such individuals
28 with felony convictions are ineligible for an employee exemption and are in violation of O.C.G.A. §§
29 7-3-4 and 7-3-50. The licensee employer is also in violation of O.C.G.A. § 7-3-4 in such circumstance.

30
31 (e) A cease and desist order to a person for failure to meet the employee exemption due to a violation
32 of the felony provisions of O.C.G.A. § 7-3-42 shall become final in 30 days without a hearing pursuant
33 to O.C.G.A. § 7-3-45. Such a person must show within those 30 days, by certified court documents
34 that the record is erroneous, or, that the cure provisions in O.C.G.A. § 7-3-42 were completed prior to

1 [employment, in order to stop the order from becoming final. In the event such proof is provided, the](#)
2 [order will be rescinded.](#)

3
4 [\(3\) Cease and desist orders may be issued against persons required to be licensed or against employees](#)
5 [of those parties. All of the provisions of O.C.G.A. §§ 7-3-45 and 7-3-46, including injunction, apply to](#)
6 [actions against all such persons.](#)

7
8 [\(4\) For purposes of O.C.G.A. §§ 7-3-31 and 7-3-43\(b\)\(1\), “misrepresentation” means making a false](#)
9 [statement of a substantive fact or intentionally engaging in any conduct which leads to a false belief which](#)
10 [is material to the transaction.](#)

11
12 [Statutory Authority: O.C.G.A. §§ 7-3-4, 7-3-42, 7-3-43, 7-3-45, 7-3-46, and 7-3-47.](#)

13
14 **[80-14-4-.03 Verification of Lawful Presence Affidavit.](#)**

15
16 [\(1\) Pursuant to O.C.G.A. § 50-36-1, the Department is required to obtain an affidavit verifying the lawful](#)
17 [presence of every natural person that submits an application for a license as an installment lender on](#)
18 [behalf of an individual, business, corporation, partnership, limited liability company, or any other business](#)
19 [entity. For businesses, corporations, partnerships, limited liability companies, and other business entities](#)
20 [\(collectively "company applicant"\), only an owner or executive officer that is authorized to act on behalf](#)
21 [of the company applicant is authorized to submit the required signed and sworn affidavit.](#)

22 [\(2\) In the event the individual that executed the lawful presence affidavit on behalf of the company](#)
23 [applicant is no longer an owner or executive officer of the licensee, the licensee must notify the](#)
24 [Department within ten \(10\) business days following the date of the occurrence and provide the](#)
25 [Department with an affidavit from a current owner or executive officer verifying his or her lawful presence](#)
26 [on behalf of the licensee. The failure to disclose within ten \(10\) business days that the owner or executive](#)
27 [officer that executed the lawful presence affidavit is no longer in that position with the licensee or to](#)
28 [timely submit a new affidavit from a current owner or executive officer may subject the license to](#)
29 [revocation, suspension, and other administrative action.](#)

30
31 [Statutory Authority: O.C.G.A. § 50-36-1.](#)

32
33 **[80-14-4-.04 Nationwide Multistate Licensing System and Registry.](#)**

34
35 [\(1\) License issuance and renewals.](#)

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(a) All applications for new or renewal licenses must be made through the Nationwide Multistate Licensing System and Registry ("NMLSR"). Fees for new applications include an initial Department investigation fee and the appropriate application fee. Applications for new licenses which are approved between November 1 and December 31 in any year will not be required to file a renewal application for the next calendar year. All fees are nonrefundable.

(b) All licenses issued shall expire on December 31 of each year, and an application for renewal shall be made annually between November 1 and December 31 each year. Subsequent renewal applications and license fees must be received on or before December 1 of each year or the renewal applicant will be assessed a late fee as set forth in Rule 80-5-1-.02. A renewal application is not deemed received until all required information and corresponding fees have been provided by the licensee. A proper renewal application not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license will expire. Unless a proper renewal application has been received, any license which is not renewed on or before December 31 will require the renewal applicant to file a new license application in order to conduct business as an installment lender in the State after that date.

(2) The responsibility of applicants and licensees to update information in NMLSR.

(a) It shall be the sole responsibility of each applicant for a license and each licensee to keep current at all times its information on the NMLSR. Amendments to any information on file with the NMLSR must be made by the applicant or licensee within ten (10) business days of the date of the event necessitating the change. The Department shall have no responsibility for any communication not received by an applicant or licensee due to its failure to maintain current contact information on the NMLSR as required.

(b) Amendments to any responses to disclosure questions by an applicant for a license or a licensee must be made within ten (10) business days following the date of the event necessitating the change. Failure by an applicant for a license to timely update the applicant's responses to disclosure questions may be considered a violation of O.C.G.A. § 7-3-43(6).

(i) It shall be the responsibility of each applicant for a license and each licensee to ensure that its control persons keep current at all times their information on the NMLSR. Amendments to any information on file with the NMLSR must be made by the control person within ten (10) business days of the date of the event necessitating the change. For purposes of this Rule, control person means any individual that has the power, either directly or indirectly, to direct or cause the

1 direction of management and policies of an applicant or licensee, whether through the ownership
2 of voting or nonvoting securities, by contract, or otherwise.

3
4 (ii) Amendments to any responses to disclosure questions by a control person must be made
5 within ten (10) business days following the date of the event necessitating the change. Failure by
6 a control person of an applicant for a license to timely update the control person's responses to
7 disclosure questions may result in the denial of the application. In the case of a licensee, failure
8 by a control person to timely update any disclosure information may result in the revocation of
9 its license.

10
11 (3) A licensee may challenge information entered by the Department into the NMLSR. All challenges must
12 be sent to the Department in writing addressed to the attention of the Deputy Commissioner of Non-
13 Depository Financial Institutions. Once received, the Department shall consider the merits of the
14 challenge raised and provide the licensee with a written reply that shall be the Department's final decision
15 regarding the challenge.

16
17 (4) Each licensee shall submit to the Department on a quarterly basis, via the NMLSR or other means
18 specified by the Department, an installment loan report in a form and manner prescribed by the
19 Department which shall include, but not be limited to, information regarding installment loan activity. The
20 loan report shall be submitted to the Department forty-five (45) days after the end of each calendar
21 quarter. Licensees submitting quarterly loan reports to the Department are certifying to the material
22 accuracy and validity of the information as submitted.

23
24 Statutory Authority: O.C.G.A. §§ 7-3-20, 7-3-22, and 7-3-30.

25
26 **80-14-4-.05 Transition to Department.**

27
28 Installment Lenders licensed as of July 1, 2020, shall be afforded a transition period through **October 15,**
29 2020, to demonstrate compliance with the following requirements:

30
31 (a) Background checks as required by O.C.G.A. § 7-3-42(d) and Rule 80-14-1-.03 for covered
32 employees already employed by the licensee as of July 1, 2020. The required background checks shall
33 be completed prior to the date of initial hire for covered employees hired or rehired after July 1, 2010.

1 (b) Restrictions on employment of individuals with unremedied felony convictions pursuant to
2 O.C.G.A. § 7-3-42 and Rule 80-14-4-.02. The required cure for any disqualifying felony convictions
3 must be completed prior to the date of initial hire for any director, trustee, agent, owner, executive
4 officer, or covered employee hired or rehired after July 1, 2020.

5
6 (c) Department approval of location managers as required by O.C.G.A. § 7-3-32 and Rule 80-14-1.02.

7
8 (d) Corporate surety bond as required by O.C.G.A. § 7-3-21.

9
10 (e) Participation in and submission of required filings through the Nationwide Multistate Licensing
11 System and Registry as required by the Act and the Rules of the Department.

12
13 Statutory Authority: O.C.G.A. §§ 7-3-2 and 7-3-51.

14

1 CHAPTER 80-14-5

2
3 DISCLOSURE, CHARGES, AND MISCELLANEOUS

4
5 80-14-5-.01 Loan Contract, Disclosures, and Limitations.

6 80-14-5-.02 Maintenance Charges.

7 80-14-5-.03 Closing, Convenience, and Other Fees.

8 80-14-5-.04 Unsolicited Live Checks.

9 80-14-5-.05 Debt Collection.

10 80-14-5-.06 Alternate Rate Loans.

11
12 **80-14-5-.01 Loan Contract, Disclosures, and Limitations.**

13
14 (1) Loan Contract; Contents.

15
16 (a) Every consumer loan transaction shall be pursuant to a written loan contract which may include
17 a loan voucher, itemized statement of loan and charges, and disclosure statement. The loan contract
18 shall be signed by the consumer and delivered to the consumer at the time it is executed by him or
19 her. The loan contract shall be contained in a single document which may contain more than one
20 page. Printed terms shall be printed in at least six-point standard type.

21
22 (b) In connection with every consumer loan transaction, the consumer shall be furnished a written
23 itemized statement in clear terms and easily understood language which shall show the following: the
24 transaction date, a description of the subject matter and amount of the transaction, a description of
25 the collateral, if any, securing the consumer's obligations; the identity and address of the consumer
26 and the identity and address of the creditor; a schedule of the payments; the amount of the actual
27 cash advanced to or on behalf of the consumer; the amount of each class of insurance carried and the
28 premium paid thereon, stated separately for each class of insurance; and an itemization of the exact
29 amount of the interest, fees and other charges, if any, showing each element thereof.

30
31 (c) The loan contract shall include immediately above the place for the signature for the parties the
32 following notice:

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34 NOTICE TO CONSUMER

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1. Do not sign this agreement if it contains any blank spaces.

2. You are entitled to an exact copy of all papers you signed.

3. You have the right at any time to pay in advance the full amount due under this agreement and under certain conditions to obtain a partial refund of the interest charges.

4. If credit life insurance is required, you have the right to purchase either level term life insurance or reducing term life insurance coverage.

5. You are not required to purchase noncredit insurance as a condition of obtaining this loan.

(d) The creditor shall furnish the consumer with an exact copy of the loan contract including any loan voucher, itemized statement of loan charges, and disclosure statement after the agreement has been signed.

(e) With respect to every installment loan transaction, the creditor shall, at the time of the transaction, furnish to the consumer a written statement of the maximum number of payments required, the amount of such payments, and the exact due dates upon which each payment is due. The maximum number of payments and the amount and date of such payments need not be separately listed if the payments are stated in terms of a series of scheduled amounts.

(2) The following practices are prohibited in the making of an installment loan pursuant to the Georgia Installment Loan Act:

(a) Blank Agreements. Every contract evidencing an installment loan transaction shall be completed as to all essential provisions prior to the signing thereof by the parties. No licensee shall induce, encourage or otherwise permit the consumer to sign a contract containing blank spaces. Blank spaces inapplicable to a transaction must be completed in a manner which reveals their inapplicability.

(b) Negotiable Instruments. No licensee shall take or otherwise arrange for the consumer to sign an instrument payable "to order" or "to bearer", other than a check, as evidence of the credit obligation

1 of the consumer in an installment loan transaction.

2
3 (c) Balloon Payments. No licensee shall enter into a contract which contains or anticipates a schedule
4 of payments under which the last payment exceeds the amount of any other payment by more than
5 \$1.00. All other installment payments shall be scheduled at regular intervals in equal amounts.

6
7 (d) Multiple Agreements to the following extent:

8
9 (i) No licensee shall engage in any activity in connection with an installment loan by use of
10 multiple agreements or otherwise as a result of which the licensee charges, contracts for, or
11 receives any other or further amount in connection with an installment loan than that authorized
12 by law for a single loan of a comparable amount.

13
14 (ii) No licensee shall split a consumer loan into separate agreements by spouses if as a result
15 thereof the licensee charges, contracts for, or receives any other or further amount in connection
16 therewith than as authorized by law for a single loan of a comparable amount; provided, however,
17 that the licensee may make an installment loan to spouses jointly and severally if such loans do
18 not arise out of substantially the same transaction.

19
20 (e) Non-Judicial Enforcement. Notwithstanding any other provision of law, no term of an agreement
21 shall constitute authorization for a licensee to take possession of collateral by other than legal process
22 unless such authorization is clearly, prominently and conspicuously disclosed to the consumer
23 immediately above the place for his signature on the loan agreement or as an addition to the "NOTICE
24 TO CONSUMER" specified in subsection (1)(c) of this Rule.

25
26 (3) Insurance Permitted.

27
28 (a) With respect to any installment loan transaction, the licensee shall not require any insurance other
29 than insurance covering the loss of or damage to any property in which the creditor is given a security
30 interest. Credit life and credit accident and sickness insurance if required by the licensee, may be
31 provided by the licensee through an insurer authorized to issue such insurance in this State.

32
33 (b) If a licensee requires any insurance permitted under subsection (1) above in any consumer loan
34 transaction, the consumer shall be given written notice of the option of providing such insurance
35 through an existing policy or a policy independently obtained and paid for by the consumer. If the
36 licensee requires credit life insurance, the licensee shall give the consumer written notice of the

1 consumer's right to choose either level term life insurance or reducing term life insurance coverage.
2 The licensee may for reasonable cause before credit is extended decline the insurance provided by
3 the consumer.

4
5 (c) Any insurance offered by an installment lender licensee shall comply with any and all applicable
6 insurance laws and regulations.

7
8 (4) Discharge of Security Interests. When the consumer is indebted to a particular licensee for two or
9 more consumer loans, any security interest held by such licensee for any particular loan shall be
10 discharged when the loan for which the security interest is held is paid irrespective of indebtedness to the
11 licensee by the consumer on other outstanding installment loans. As a general rule, security interests in
12 terms of property shall terminate as the debt originally incurred with respect to each item is paid and in
13 the case of the consolidation of two or more installment loans or any circumstances in which the general
14 rule is not followed, the licensee may be required by the Department to show that his conduct with
15 respect to such loan transactions was just, fair and reasonable. For the purposes of this Rule, the renewal
16 of a consumer loan shall not be deemed to be payment thereof.

17
18 (5) Electronic Transactions Permitted. The provisions of the Uniform Electronic Transactions Act, O.C.G.A.
19 § 10-12-1 et seq., applies to loans made pursuant to the Georgia Installment Loan Act. Nothing in the Act
20 or the Department's rules shall be construed as prohibiting installment loans from being originated or
21 closed remotely by a licensee.

22 (6) Other Purchases. If any loan within the Act is made in conjunction with the provision of any item,
23 service, or commodity incidental to the advancement of funds, or if any other element is introduced into
24 the transaction at the expense of the consumer, then the licensee shall provide to the consumer a
25 separate written disclosure statement. The disclosure statement shall disclose, in no smaller than
26 twelve-point type, the following:

27 (a) That the consumer does not have to purchase any such item, service, or commodity, or pay for
28 such element, in order to obtain the loan.

29 (b) The cost to the consumer of any such purchase or element.

30 (c) The disclosure statement shall contain the consumer's signed acknowledgement of the
31 consumer's understanding that such purchase or element is not required and of the specific cost to
32 the borrower for each such item, service, commodity, or element.

33 (d) A copy of the signed document shall be provided to the borrower, and the licensee shall retain the
34 original in the loan file.

35

1 (7) Receipt. Each consumer shall be provided with a written receipt for each payment made showing
2 the licensee's unique identifier and name on record with the Department, the applicable loan number,
3 the date of the payment, and the dollar amount of the payment.

4
5 Statutory Authority: O.C.G.A. §§ 7-3-11, 7-3-12, 7-3-15, and 7-3-51.

6
7 **80-14-5-.02 Maintenance Charges**

8 **Maintenance Charges.**

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10 Maintenance Charges

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12 (1) The following terms shall have the following meaning as used in this Rule unless a different meaning
13 or construction is clearly required by the context:

14
15 (a) "Earned maintenance charges" shall mean those maintenance charges which are applicable to
16 those months in the term of the loan contract in which the loan has been maintained by the licensee
17 for a period of time of one (1) or more complete months. Such earned maintenance charges shall be
18 determined by multiplying the total number of months in the term of the loan contract in which the
19 loan has been maintained by the licensee by the amount of the maintenance charge authorized under
20 O.C.G.A. § 7-3-11.

21
22 (b) "Maintenance charges" shall mean charges by a licensee for maintaining a loan for a period of one
23 or more months in accordance with the provisions of O.C.G.A. § 7-3-11 and this Rule.

24
25 (c) "Month" shall mean a complete calendar month for all loans whose contract begins as of the first
26 day of the calendar month. For all other loans, the term month shall mean a period of thirty (30)
27 consecutive calendar days and for the purpose of calculation of refunds under the provisions of
28 Paragraph 5 of this Rule, the term "month" shall mean thirty (30) consecutive calendar days.

29
30 (d) "Unearned maintenance charges" shall mean those maintenance charges applicable to the partial
31 month in the term of the loan contract in which the loan was maintained by the licensee for one (1)
32 or more days but in which the loan contract was terminated prior to its scheduled maturity date on a
33 day other than the ending day of a month as defined in this Rule.

1 (2) A licensee may collect from an installment loan borrower a monthly maintenance charge as specified
2 in O.C.G.A. § 7-3-11 for each month that such loan is maintained by the licensee and such maintenance
3 charges shall be calculated and collected as follows:

4
5 (a) The "total maintenance charges collectible" over the entire term of the consumer loan shall not
6 exceed the amount obtained by multiplying the total number of months in the term of the loan
7 contract by the monthly maintenance charge specified in the GILA except as provided in subsection
8 (c) of this Rule.

9
10 (b) The "total maintenance charges collectible per installment" shall not exceed the amount obtained
11 by dividing the "total maintenance charges collectible" as calculated in (a) above by the total number
12 of installments contemplated in the loan contract except as provided in subsection (c) of this Rule.

13
14 (c) A borrower shall not be required by a licensee to pay an amount of maintenance charges at any
15 one time which exceeds the "total amount of maintenance charges collectible per installment" as
16 calculated in (b) above; provided that nothing contained herein shall be deemed to prohibit a licensee
17 from collecting any earned but uncollected portion of such maintenance charges due and owed by
18 the borrower to the licensee on previous installments of the same loan contract or from collecting
19 any unearned maintenance charges which are otherwise due and owed by the borrower to the
20 licensee by virtue of the application of the refund method prescribed in Paragraph 4 of this Rule.

21
22 (3) In no event shall a licensee charge a maintenance charge to a borrower for any month in the term of
23 the loan contract in which the loan was not maintained by the licensee and in no event shall a licensee
24 charge a maintenance charge for maintaining a loan contract past the scheduled maturity date of the loan,
25 regardless of the number of days such loan is maintained past the scheduled maturity date.

26
27 (4) In the event that a discharge, refinancing, prepayment, acceleration, or any other event occurs which
28 causes a consumer loan to terminate prior to its scheduled maturity date, the licensee shall make a pro
29 rata refund of the amount of any unearned maintenance charges applicable to the loan contract.

30
31 (5) Maintenance charges shall be considered as an additional charge and:

32
33 (a) Shall not be considered in the calculation of any interest, fees, or other charges otherwise
34 authorized by law or regulations including charges for any premiums for insurance written in
35 connection with a consumer loan; provided, that such maintenance charges will be subject to the
36 provisions of O.C.G.A. § 7-3-11.

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(b) A borrower's failure to pay any maintenance charges applicable to the loan when due shall not be considered by a licensee as the occurrence of an event which causes the outstanding unpaid balance of the loan contract to become immediately due and payable by virtue of any acceleration clause or other similar clause or provision contained in the loan contract.

(6) If maintenance charges are to be charged and collected by a licensee on an installment loan contract the licensee shall be required to:

(a) Clearly, prominently, conspicuously and separately itemize in the loan contract:

- i. The face amount of the contract.
- ii. The total amount of maintenance charges collectible under the loan.
- iii. The total amount of each payment including maintenance charges.
- iv. The total of payments including maintenance charges.

(b) Provide space for and record the actual amounts of individual charges on the account record with respect to:

- i. The face amount of the contract.
- ii. The total amount of maintenance charges collectible under the loan.
- iii. The total amount of each payment including maintenance charges.
- iv. The total of payments including maintenance charges.

1 Statutory Authority: O.C.G.A. §§ 7-3-11, 7-3-14, and 7-3-51.

4 **80-14-5-.03 Closing, Convenience, and Other Fees.**

6 (1) Closing Fees. In addition to any other charges authorized by the Georgia Installment Loan Act (“Act”),
7 a licensee may collect a closing fee at the time of making a loan to the extent authorized by O.C.G.A. § 13-
8 1-14.

10 (a) No licensee may collect a closing fee unless, prior to the advance of money or the extension of
11 credit, such licensee conducted an investigation or verification of the borrower's credit history,
12 residences, references, employment, or sources of income. Each licensee shall retain on file the
13 procedures that the licensee uses to conduct such investigations and verifications.

15 (b) The amount of the closing fee shall be listed in the loan agreement after the loan fees authorized
16 by O.C.G.A. § 7-3-11 but before the maintenance charge fee.

18 (2) Convenience Fees. In addition to any other charges authorized by the Act, a licensee may collect
19 convenience fees to offset the cost of receiving payment by electronic means, to the extent authorized
20 by O.C.G.A. § 13-1-15. If a licensee elects to calculate convenience fees based on average cost for that
21 specific type of payment over the preceding calendar year rather than the actual cost, the licensee shall
22 maintain documentation supporting the calculation of the average cost.

24 (3) Unaffiliated Third-Party Fees. Fees charged to a consumer by a third party unaffiliated with a licensee
25 to negotiate a payment instrument, including but not limited to check cashing fees or automated teller
26 machine fees, are not prohibited by the Act.

28 (4) Late Charges. O.C.G.A. § 7-3-14(4) specifically provides that a licensee may charge and collect from
29 the borrower a late or delinquent charge of \$10.00 or an amount equal to 5¢ for each \$1.00 of any
30 installment which is not paid within five days from the date such payment is due, whichever is greater,
31 provided that this late or delinquent charge shall not be collected more than once for the same default.
32 Therefore, a licensee is not authorized to charge and collect a late or delinquent charge from a borrower
33 until such time as that borrower has actually failed to pay an installment within five days after the date
34 such payment was due. Under no circumstances is a licensee authorized to charge or collect and hold any
35 unearned late or delinquent charge in advance, to be refunded if said installment is paid on or within five
36 days from the date such payment is due.

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(5) Charges for Refinancing. When any debt is renewed or refinanced by any creditor, the consumer shall be entitled to a refund or credit of that unearned portion of the interest charge computed as of the date of such refinancing or renewal and pursuant to the methodology set forth in O.C.G.A. § 7-3-14.

Statutory Authority: O.C.G.A. §§ 7-3-14, 7-3-51, 13-1-14, and 13-1-15.

80-14-5-.04 Unsolicited Live Checks.

(1) "Live check" means a negotiable check or other negotiable instrument that may be used by a consumer to activate a loan regulated by the Georgia Installment Loan Act ("Act").

(2) The licensee must maintain in its office a system for:

(a) preventing the offering of an unsolicited live check to an individual who is not credit-worthy; and

(b) protecting the intended recipient of an unsolicited live check and the licensee in the event of the fraudulent conversion of the unsolicited live check.

(3) Any use of an unsolicited live check must contain:

(a) the ZIP+4 code and the name of the county of the recipient in the address line of the live check;

(b) a check number or other tracking number for the loan offered on the live check;

(c) the following statement, printed in 14 point size font boldface type on the face of the live check: **"This is a loan."**;

(d) the following statements printed on the face of the live check: "Cashing this check requires repayment of the loan plus potential charges. Read all terms.";

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(f) the following statement printed in the solicitation: "You have the right to file a written complaint with the licensee via [mailing address or email address] and with the Department of Banking and Finance via email at dbfgila@dbf.state.ga.us." and,

(g) the name on record with the Department, unique identifier, and telephone number of the licensee.

(4) The terms of the loan resulting from an unsolicited live check must comply with the Act and the rules and regulations of the Department.

(5) The licensee may not offer or provide insurance or other ancillary products in conjunction with a loan obtained through an unsolicited live check.

(6) The licensee may not send an unsolicited live check to an individual who resides beyond the boundaries of a county in which the licensee has an approved location or more than twenty-five (25) miles from an approved location, unless the licensee has provided a means for the consumer to submit payments electronically without imposing a convenience fee pursuant to O.C.G.A. § 13-1-15.

(7) The licensee must report to the Department within ten (10) business days of the licensee having any knowledge of any suspected or confirmed fraud related to an unsolicited live check.

Statutory Authority: O.C.G.A. §§ 7-3-10 and 7-3-51.

80-14-5-.05 Debt Collection.

(1) In addition to the requirements of O.C.G.A. § 7-3-33, each licensee, agent, and employee thereof must comply with the requirements of the Fair Debt Collection Practice Act ("FDCPA"), 18 U.S.C. 1692 *et seq.*

(2) Every licensee shall be presumed to know that any debt collector engaged by the licensee will be an agent of the licensee and will be acting for and on behalf of the licensee in connection with the collection of any debt allegedly owed the licensee. Every licensee shall be absolutely responsible for compliance

1 [with O.C.G.A. § 7-3-33 and this Rule by the debt collector in collecting or attempting to collect any debt](#)
2 [allegedly owed to the licensee.](#)

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4 [Statutory Authority: O.C.G.A. §§ 7-3-33 and 7-3-51.](#)

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