

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**SENATE BILL 1064**

Short Title: Mortgage Lending Act.

(Public)

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Sponsors: Senator Soles.

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Referred to: Commerce.

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April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA MORTGAGE LENDING ACT.

The General Assembly of North Carolina enacts:

**SECTION 1.** The General Statutes are amended by adding a new Chapter to read:

"Chapter 93F.

"Mortgage Lending Act.

**"§ 93F-1. Definitions.**

The following definitions apply in this Chapter:

- (1) Branch manager. – The individual whose principal office is physically located in, who is in charge of, and who is responsible for the business operations of a branch office of a mortgage broker or mortgage banker.
- (2) Branch office. – An office of the licensee acting as a mortgage broker or mortgage banker that is separate and distinct from the licensee's principal office.
- (3) Commissioner. – The North Carolina Commissioner of Banks and his or her designees.
- (4) Control. – The power to vote more than twenty percent (20%) of outstanding voting shares or other interests of a corporation, partnership, limited liability company, association, or trust.
- (5) Exempt person. – The term includes any of the following:
  - a. Any agency of the federal government or any state or municipal government granting first mortgage loans under specific authority of the laws of any state or the United States.
  - b. Any employee of a licensee whose responsibilities are limited to clerical and administrative tasks for his or her employer and who does not solicit borrowers, accept applications, or negotiate the terms of loans on behalf of the employer.

- 1           c.    Any lender authorized to engage in business as a bank or a  
2           wholly owned subsidiary of a bank, a farm credit system, life  
3           insurance company, savings institution, or credit union, under  
4           the laws of the United States, this State, or any other state.
- 5           d.    Any licensed real estate agent or broker who is performing  
6           those activities subject to the regulation of the North Carolina  
7           Real Estate Commission. Notwithstanding the above, an exempt  
8           person does not include a real estate agent or broker who  
9           receives compensation of any kind in connection with the  
10          referral, placement, or origination of a mortgage loan.
- 11          e.    Any officer or employee of an exempt person described in sub-  
12          subdivision c. of this subdivision.
- 13          f.    Any person who, as seller, receives in one calendar year no  
14          more than five mortgages, deeds of trust, or other security  
15          instruments on real estate as security for a purchase money  
16          obligation.
- 17          g.    The North Carolina Housing Finance Agency as established by  
18          Article 122A of the General Statutes and the North Carolina  
19          Agricultural Finance Authority as established by Article 122D  
20          of the General Statutes.
- 21          (6)   Licensee. – A loan officer, mortgage broker, or mortgage banker who  
22          is licensed pursuant to this Chapter.
- 23          (7)   Loan officer. – A natural person who, in exchange for compensation as  
24          an employee of another person, accepts or offers to accept applications  
25          for mortgage loans. The definition of loan officer shall not include any  
26          exempt person described in subdivision (5)b. of this section.
- 27          (8)   Make a mortgage loan. – To close a mortgage loan, to advance funds,  
28          to offer to advance funds, or to make a commitment to advance funds  
29          to a borrower under a mortgage loan.
- 30          (9)   Managing principal. – A person who meets the qualifications of G.S.  
31          93F-5(c) and who agrees to be primarily responsible for the operations  
32          of a licensed mortgage broker or mortgage banker.
- 33          (10)  Mortgage banker. – A person who practices mortgage lending.  
34          However, the definition does not include a person who practices  
35          mortgage lending only in tablefunding transactions.
- 36          (11)  Mortgage broker. – A person who acts as a mortgage broker.
- 37          (12)  Mortgage loan. – A loan to a natural person or persons made primarily  
38          for personal family or household use, primarily secured by either a  
39          mortgage or a deed of trust on residential real property located in  
40          North Carolina.
- 41          (13)  Person. – An individual, partnership, limited liability company, limited  
42          partnership, corporation, association, or other group engaged in joint  
43          business activities however organized.

- 1           (14) Practice of mortgage brokering. – The act, for compensation or gain,  
2 or in the expectation of compensation or gain, either directly or  
3 indirectly, of accepting or offering to accept an application for a  
4 mortgage loan, soliciting or offering to solicit a mortgage loan,  
5 negotiating the terms or conditions of a mortgage loan, issuing  
6 mortgage loan commitments or interest rate guarantee agreements to  
7 borrowers, engaging in tablefunding of mortgage loans, or generating  
8 leads or referrals for mortgage loans through contact by telephone, by  
9 electronic means, by mail, or in person with the borrowers or potential  
10 borrowers.
- 11           (15) Practice of mortgage lending. – The act of engaging in the business of  
12 making mortgage loans for compensation or gain.
- 13           (16) Qualified lender. – A person who is engaged as a mortgage lender in  
14 North Carolina and is supervised or any nonsupervised institution, as  
15 these terms are defined in 24 C.F.R. § 202.2, approved by the United  
16 States Department of Housing and Urban Development.
- 17           (17) Qualified person. – A person who is employed as a registered loan  
18 officer by a mortgage broker, qualified lender, or mortgage banker or  
19 who is an officer, director, shareholder, partner, member, or manager  
20 of such a registered mortgage broker, qualified lender, or mortgage  
21 banker.
- 22           (18) Residential real property. – Real property located in the state of North  
23 Carolina upon which there is located or is to be located one or more  
24 single family dwellings or dwelling units.
- 25           (19) Tablefunding. – A transaction where a licensee closes a loan in its own  
26 name with funds provided by others and the loan is assigned  
27 simultaneously with or within one business day of the funding of the  
28 loan to the mortgage lender providing the funding.

29 **§ 93F-2. License required; licensee records.**

30           (a) Other than an exempt person, it is unlawful for any person in this State to act  
31 as a mortgage broker or mortgage banker, or directly or indirectly to engage in the  
32 business of a mortgage broker or a mortgage banker, without first obtaining a license  
33 from the Commissioner under the provisions of this Chapter.

34           (b) It is unlawful for any natural person to engage in the solicitation and  
35 acceptance of applications for mortgage loans without first obtaining a license as a loan  
36 officer issued by the Commissioner under the provisions of this Chapter. It is unlawful  
37 for any person to employ, to compensate, or to appoint as its agent a loan officer unless  
38 the loan officer is licensed as a loan officer under this Chapter. Exempt persons shall not  
39 be subject to this subsection.

40           (c) The license of a loan officer is not effective during any period when he or she  
41 is not employed by a mortgage broker or mortgage banker licensed under this Chapter.  
42 When a loan officer ceases to be employed by a mortgage broker or mortgage banker  
43 licensed under this Chapter, the loan officer and the mortgage broker or mortgage  
44 banker licensed under this Chapter by whom he or she is employed shall promptly

1 notify the Commissioner in writing. A loan officer may not be employed simultaneously  
2 by more than one mortgage broker or mortgage banker licensed under this Chapter.

3 (d) Each mortgage broker and mortgage banker licensed under this Chapter shall  
4 maintain on file with the Commissioner a list of all loan officers who are employed with  
5 the mortgage broker or mortgage banker.

6 **"§ 93F-3. Review by Banking Commission.**

7 The Banking Commission shall have full authority to review any rule, regulation,  
8 order, or article of the Commissioner adopted pursuant to or with respect to the  
9 provisions of this Chapter, and any person aggrieved by any rule, regulation, order, or  
10 article may appeal to the Banking Commission for review upon giving notice in writing  
11 20 days after the rule, regulation, order, or article that is the subject of the complaint is  
12 adopted or issued. Notwithstanding any other provision of law, any party aggrieved by a  
13 decision of the Banking Commission shall be entitled to an appeal pursuant to G.S. 53-  
14 92.

15 **"§ 93F-4. Rulemaking authority.**

16 The Banking Commission may adopt any rules necessary to carry out the provisions  
17 of this Chapter, to provide for the protection of the borrowing public, and to instruct  
18 mortgage lenders in interpreting this Chapter.

19 **"§ 93F-5. Qualifications for licensure; issuance.**

20 (a) Any person other than an exempt person desiring to obtain a license as a loan  
21 officer, mortgage banker, or mortgage broker shall make written application for  
22 licensure to the Commissioner on forms prescribed by the Commissioner. In accordance  
23 with rules adopted by the Commission, the application shall contain any information the  
24 Commissioner deems necessary regarding the following:

- 25 (1) The applicant's name and address.
- 26 (2) The applicant's form and place of organization, if applicable.
- 27 (3) The applicant's proposed method of and locations for doing business,  
28 if applicable.
- 29 (4) The qualifications and business history of the applicant and, if  
30 applicable, the business history of any partner, officer, or director, any  
31 person occupying a similar status or performing similar functions, or  
32 any person directly or indirectly controlling the applicant, including:  
33 (i) a description of any injunction or administrative order by any state  
34 or federal authority to which the person is or has been subject; (ii) a  
35 conviction of a misdemeanor including any aspect of the residential  
36 mortgage lending business; (iii) any convictions of misdemeanors or  
37 felonies involving fraudulent dealings or moral turpitude.
- 38 (5) The applicant's financial condition and credit and business history.

39 (b) In addition to the requirements imposed by the Commissioner under  
40 subsection (a) of this section, each individual applicant for licensure as a loan officer  
41 shall:

- 42 (1) Be at least 18 years of age.
- 43 (2) Have satisfactorily completed, within the three years immediately  
44 preceding the date application is made, a mortgage lending

1 fundamentals course approved by the Commissioner. The course shall  
2 consist of at least eight hours of classroom instruction in subjects  
3 related to mortgage lending approved by the Commissioner. In  
4 addition, the applicant shall have satisfactorily completed a written  
5 examination approved by the Commissioner or possess residential  
6 mortgage lending education or experience in residential mortgage  
7 lending transactions that the Commissioner deems equivalent to the  
8 course.

9 (c) In addition to the requirements under subsection (a), each applicant for  
10 licensure as a mortgage broker or mortgage banker at the time of application and at all  
11 times thereafter shall comply with the following requirements:

- 12 (1) If the applicant is a sole proprietor, he or she shall have at least three  
13 years of experience in residential mortgage lending or other experience  
14 or competency requirements as the Commissioner may impose by rule.  
15 (2) If the applicant is a general or limited partnership, at least one of its  
16 general partners shall have the experience as described under  
17 subdivision (1) of this subsection.  
18 (3) If the applicant is a corporation, at least one of its principal officers  
19 shall have the experience as described under subdivision (1) of this  
20 subsection.  
21 (4) If the applicant is a limited liability company, at least one of its  
22 managers shall have the experience as described under subdivision (1)  
23 of this subsection.

24 (d) Each applicant shall identify one person meeting the requirements of  
25 subsection (c) of this section to serve as the applicant's managing principal.

26 (e) Every applicant for initial licensure shall pay a filing fee of one thousand  
27 dollars (\$1,000) for licensure as a mortgage broker or mortgage banker or fifty dollars  
28 (\$50.00) for licensure as a loan officer.

29 (f) A mortgage banker shall post a surety bond in the amount of one hundred  
30 fifty thousand dollars (\$150,000) and a mortgage broker shall post a surety bond in the  
31 amount of fifty thousand dollars (\$50,000). The surety bond shall be in a form  
32 satisfactory to the Commissioner and shall run to the State for the benefit of any  
33 claimants against the licensee to secure the faithful performance of the obligations of  
34 the licensee with respect to the receipt, handling, transmission, and payment of money  
35 or monetary value in connection with a mortgage loan. The aggregate liability of the  
36 surety shall not exceed the principal sum of the bond. A party having a claim against the  
37 licensee may bring suit directly on the surety bond or the Commissioner may bring suit  
38 on behalf of any claimants, either in one action or in successive actions. Any  
39 appropriate deposit of cash or securities shall be accepted in lieu of any bond that is  
40 required. An audited financial statement showing a net worth of two hundred fifty  
41 thousand dollars (\$250,000) or more shall be accepted in lieu of any bond required. No  
42 bond shall be required of any supervised or any nonsupervised institution, as defined in  
43 24 C.F.R. §202.2, approved by the United States Department of Housing and Urban  
44 Development.

1     (g) Any partner, member, shareholder, officer, or other person occupying a  
2 similar position with an applicant at the time of the application and who meets the  
3 requirements under subsection (c) of this section shall be issued a license as a loan  
4 officer without further action under this Chapter.

5     (h) Each branch office of a mortgage broker or mortgage banker licensed under  
6 the provisions of this Chapter shall be issued a separate license. A licensed mortgage  
7 broker or mortgage banker shall file with the Commissioner an application on a form  
8 prescribed by the Commissioner that identifies the address of the branch and the branch  
9 manager. A filing fee of one hundred dollars (\$100.00) shall be assessed by the  
10 Commissioner for each branch office issued a license.

11     (i) Upon determining that an applicant meets the qualifications for licensure, the  
12 Commissioner shall issue a license to the applicant.

13 **"§ 93F-6. License renewal; termination.**

14     (a) All licenses issued by the Commissioner under the provisions of this Chapter  
15 shall expire annually on the 30<sup>th</sup> day of June following issuance or on any other date that  
16 the Commissioner may determine. The license shall become invalid after that date  
17 unless renewed. A license may be renewed 45 days prior to the expiration date by  
18 paying to the Commissioner a renewal fee as follows:

19         (1) Licensed mortgage bankers shall pay an annual fee of five hundred  
20 dollars (\$500.00), and one hundred dollars (\$100.00) for each branch  
21 office.

22         (2) Licensed mortgage brokers shall pay an annual fee of five hundred  
23 dollars (\$500.00), and one hundred dollars (\$100.00) for each branch  
24 office.

25         (3) Licensed loan officers shall pay an annual fee of fifty dollars (\$50.00).

26     (b) If a license is not renewed prior to the applicable expiration date, then an  
27 additional two hundred fifty dollars (\$250.00) shall be assessed as a late fee to any  
28 renewal. In the event a licensee fails to obtain a reinstatement of the license within 90  
29 days after the date the license expires, the Commissioner may, in its discretion, require  
30 the licensee to comply with the requirements for the initial issuance of a license under  
31 the provisions of this Chapter.

32     (c) Licenses issued under this Chapter are not assignable. Control of a licensee  
33 may not be acquired through a stock purchase or other device without the prior written  
34 consent of the Commissioner. The Commissioner shall not give written consent if the  
35 Commissioner finds that any of the grounds for denial, revocation, or suspension of a  
36 license pursuant to G.S. 93F-11 are applicable to the acquiring person.

37 **"§ 93F-7. Continuing education.**

38     (a) As a condition of license renewal, the Commissioner may adopt rules to  
39 require continuing education of licensees under this Chapter for the purpose of  
40 enhancing the professional competence and professional responsibility of mortgage  
41 bankers, mortgage brokers, and loan officers. The rules may include criteria for:

42         (1) The content of continuing education courses.

43         (2) Accreditation of continuing education sponsors and programs.

44         (3) Accreditation of videotape or other audiovisual programs.

- 1           (4)    Computation of credit.  
2           (5)    Special cases and exemptions.  
3           (6)    General compliance procedures.  
4           (7)    Sanctions for noncompliance.

5       (b)    Annual continuing professional education requirements shall be determined  
6 by the Commissioner. However, the requirements shall not exceed eight credit hours  
7 within a one-year period.

8    **"§ 93F-8. Managing principals and branch managers.**

9       Each mortgage broker or mortgage banker licensed under this Chapter shall have a  
10 managing principal who operates the business under his or her full charge, control, and  
11 supervision. Each branch office of a mortgage broker or mortgage banker licensed  
12 under this Chapter shall have a branch manager who meets the requirements under G.S.  
13 93F-5(c). The managing principal for a licensee's business may also serve as the branch  
14 manager of one of the licensee's branch offices. Each mortgage broker or mortgage  
15 banker licensed under this Chapter shall file a form as prescribed by the Commissioner  
16 indicating the business's designation of managing principal and branch manager for  
17 each branch and each individual's acceptance of the responsibility. Each mortgage  
18 broker or mortgage banker licensed under this Chapter shall notify the Commissioner of  
19 any change in its managing principal or branch manager designated for each branch.  
20 Any licensee who does not comply with this provision shall have his or her license  
21 suspended pursuant to G.S. 93F-11 until the licensee complies with this section. Any  
22 individual licensee who operates as a sole proprietorship shall be considered a managing  
23 principal for the purposes of this Chapter.

24   **"§ 93F-9. Offices; address changes; display of license.**

25       (a)    Each mortgage broker licensee shall maintain and transact business from a  
26 principal place of business in this State. A principal place of business in this State shall  
27 consist of at least one enclosed room or building of stationary construction in which  
28 negotiations of mortgage loan transactions of others may be conducted and carried on in  
29 privacy and in which all of the books, records, and files pertaining to mortgage loan  
30 transactions relating to borrowers in this State are maintained. However, the  
31 Commissioner may, by rule, impose terms and conditions under which the records and  
32 files may be maintained outside of this State.

33       (b)    A mortgage banker or mortgage broker licensee shall report any change of  
34 address of the principal place of business or any branch office within 15 days after the  
35 change.

36       (c)    Each mortgage broker or mortgage banker licensed under this Chapter shall  
37 display in plain view the certificate of licensure issued by the Commissioner in its  
38 principal office and in each branch office. Each loan officer licensed under this Chapter  
39 shall display in each branch office in which he or she acts as a loan officer the  
40 certificate of licensure issued by the Commissioner.

41   **"§ 93F-10. Prohibited activities.**

42       In addition to the activities prohibited under other provisions of this Chapter, it shall  
43 be unlawful for any person in the course of any mortgage loan transaction:

- 1           (1)    To misrepresent or conceal the material facts or make false promises  
2               likely to influence, persuade, or induce an applicant for a mortgage  
3               loan or a mortgagor to take a mortgage loan, or to pursue a course of  
4               misrepresentation through agents or otherwise.
- 5           (2)    To refuse improperly to issue a satisfaction of a mortgage.
- 6           (3)    To fail to account for or to deliver to any person any personal property  
7               obtained in connection with a mortgage loan, such as money, including  
8               money provided by a borrower for a real estate appraisal or a credit  
9               report, funds, deposit, check, draft, mortgage, or other document or  
10              thing of value, which has come into his or her possession and that is  
11              not his or her property or that he or she is not in law or equity entitled  
12              to retain.
- 13          (4)    To pay any commission, share, split, or compensation in connection  
14               with a mortgage loan: (i) to any person who is engaged in the  
15               mortgage brokerage or mortgage banking business in violation of this  
16               Chapter; or (ii) to any unlicensed person, other than an exempt person,  
17               acting as a loan officer, mortgage broker, or mortgage lender.
- 18          (5)    To charge or collect any fee or rate of interest prohibited by Chapter  
19               24 of the General Statutes in connection with a mortgage loan.
- 20          (6)    To advertise mortgage loans, including rates, margins, discounts,  
21               points, fees, commissions, or other material information, including  
22               material limitations on the loans, unless the person is able to make the  
23               mortgage loans available to a reasonable number of qualified  
24               applicants.
- 25          (7)    To fail to disburse funds in accordance with a written commitment or  
26               agreement to make a mortgage loan.
- 27          (8)    To engage in any transaction, practice, or course of business that is not  
28               in good faith or fair dealing or that constitutes a fraud upon any  
29               person, in connection with the making of or purchase or sale of any  
30               mortgage loan.

31 **"§ 93F-11. Disciplinary authority.**

32       (a)    The Commissioner may, by order, deny, suspend, revoke, or refuse to issue or  
33       renew a license of a licensee or applicant under this Chapter or may restrict or limit the  
34       activities relating to mortgage loans of any licensee or any person who owns an interest  
35       in or participates in the business of a licensee, if the Commissioner finds:

- 36           (1)    That the order is in the public interest.
- 37           (2)    That the applicant, licensee, or any partner, member, manager, officer,  
38               director, loan officer, managing broker, or any person occupying a  
39               similar status or performing similar functions or any person directly or  
40               indirectly controlling the applicant or licensee:
  - 41               a.    Has filed an application for license that, as of its effective date  
42                    or as of any date after filing, contained any statement which, in  
43                    light of the circumstances under which it was made, is false or  
44                    misleading with respect to any material fact.



- 1           **b.**    Has willfully violated or willfully failed to comply with any  
2                   provision of this Chapter, rule adopted by the Commissioner, or  
3                   order of the Commissioner.
- 4           **c.**    Has been convicted, within the past 10 years, of any  
5                   misdemeanor involving mortgage lending or any aspect of the  
6                   mortgage lending business, or any offense involving breach of  
7                   trust, moral turpitude, or fraudulent or dishonest dealing.
- 8           **d.**    Is permanently or temporarily enjoined by any court of  
9                   competent jurisdiction from engaging in or continuing any  
10                  conduct or practice involving any aspect of the mortgage  
11                  lending business.
- 12           **e.**    Is the subject of an order of the Commissioner denying,  
13                   suspending, or revoking his or her license as a mortgage broker  
14                   or mortgage banker.
- 15           **f.**    Is the subject of an order entered within the past five years by  
16                   the authority of any state with jurisdiction over that state's  
17                   mortgage brokerage or mortgage banking industry denying or  
18                   revoking his or her license as a mortgage broker or mortgage  
19                   banking industry or denying or revoking his or her license as a  
20                   mortgage broker or mortgage banker.
- 21           **g.**    Does not meet the qualification requirements under G.S. 93F-5  
22                   or any bond or capital requirements imposed by the  
23                   Commissioner, by rule, under the provisions of this Chapter.
- 24           **h.**    Has been the executive officer or controlling shareholder or  
25                   owned a controlling interest in any mortgage broker or  
26                   mortgage banker who has been subject to an order or injunction  
27                   described in sub-subdivision d., e., or f. of this subdivision.
- 28           **i.**    Has failed to pay the proper filing or renewal fee under this  
29                   Chapter. However, the Commissioner may enter only a denial  
30                   order under this sub-subdivision, and the Commissioner shall  
31                   vacate the order when the deficiency has been corrected.

32           **(b)**   The Commissioner may, by order, summarily postpone or suspend the license  
33                   of a licensee pending final determination of any proceeding under this section. Upon  
34                   entering the order, the Commissioner shall promptly notify the applicant or licensee that  
35                   the order has been entered and the reasons for the order. The Commissioner shall  
36                   calendar a hearing within 15 days after the Commissioner receives a written request for  
37                   a hearing. If a licensee does not request a hearing and the Commissioner does not  
38                   request a hearing, the order will remain in effect until it is modified or vacated by the  
39                   Commissioner. If a hearing is requested or ordered by the Commissioner, after notice of  
40                   and opportunity for hearing, the Commissioner may modify or vacate the order or  
41                   extend it until final determination.

42           **(c)**   The Commissioner may, by order, impose a civil penalty upon a licensee or  
43                   any partner, officer, director, or other person occupying a similar status or performing  
44                   similar functions on behalf of a licensee for any violation of this Chapter. The civil

1 penalty shall not exceed ten thousand dollars (\$10,000) for each violation of this  
2 Chapter by a mortgage broker or mortgage banker. The Commissioner may impose a  
3 civil penalty of up to ten thousand dollars (\$10,000) for each violation of this Chapter  
4 by a person other than a licensee or exempt person.

5 (d) In addition to other powers under this Chapter, upon finding that any action  
6 of a person is in violation of this Chapter, the Commissioner may order the person to  
7 cease from the prohibited action. If the person subject to the order fails to appeal the  
8 order of the Commissioner in accordance with G.S. 53-240 and continues to engage in  
9 the prohibited action in violation of the Commissioner's order, the person shall be  
10 subject to a civil penalty of up to twenty-five thousand dollars (\$25,000) for each  
11 violation of the Commissioner's order. The penalty provision of this section shall be in  
12 addition to and not in lieu of any other provision of law applicable to a licensee for the  
13 licensee's failure to comply with an order of the Commissioner.

14 (e) Unless otherwise provided, all actions and hearings under this Chapter shall  
15 be governed by Chapter 150B of the North Carolina General Statutes.

16 (f) When a licensee is accused of any act, omission, or misconduct that would  
17 subject the licensee to disciplinary action, the licensee, with the consent and approval of  
18 the Commissioner, may surrender the license and all the rights and privileges pertaining  
19 to it for a period of time established by the Commissioner. A person who surrenders a  
20 license shall not be eligible for or submit any application for licensure as a mortgage  
21 broker or mortgage banker during the period the license is surrendered.

22 (g) If the Commissioner has reasonable grounds to believe that a licensee or other  
23 person has violated the provisions of this Chapter or that facts exist that would be the  
24 basis for an order against a licensee or other person, the Commissioner may at any time,  
25 either personally or by a person duly designated by him or her, investigate or examine  
26 the loans and business of the licensee and examine the books, accounts, records, and  
27 files of any licensee or other person relating to the complaint or matter under  
28 investigation. The Commissioner and all persons duly designated by him or her shall  
29 have authority to issue subpoenas to require the attendance of and to examine under  
30 oath all persons whose testimony the Commissioner deems relative to the person's  
31 business. The reasonable cost of this investigation or examination shall be charged  
32 against the licensee.

33 (h) In addition to the rights described under this section, the Commissioner may  
34 require a licensee to pay to a borrower or other individual any amounts received by the  
35 licensee or its employees in violation of Chapter 24 of the General Statutes.

36 (i) If the Commissioner finds that the managing principal, branch manager, or  
37 loan officer of a licensee had knowledge of or participated in any activity that results in  
38 the entry of an order under this section suspending or withdrawing the license of a  
39 licensee, the Commissioner may prohibit the managing broker or loan officer from  
40 serving as a managing broker or loan officer for any period of time the Commissioner  
41 deems necessary.

42 **"§ 93F-12. Records.**

1       (a) The Commissioner shall keep a list of all applicants for licensure under this  
2 Chapter that includes the date of application, name, and place of residence and whether  
3 the license was granted or refused.

4       (b) The Commissioner shall keep a current roster showing the names and places  
5 of business of all licensees that shows their respective loan officers and a roster of  
6 exempt persons required to file a notice under G.S. 93F-2. The rosters shall: (i) be kept  
7 on file in the office of the Commissioner; (ii) contain information regarding all orders or  
8 other action taken against the licensees, loan officers, and other persons; and (iii) be  
9 open to public inspection.

10       (c) Every licensee shall make and keep the accounts, correspondence,  
11 memoranda, papers, books, and other records as prescribed in rules adopted by the  
12 Commissioner. All records shall be preserved for three years unless the Commissioner,  
13 by rule, prescribes otherwise for particular types of records. The recordkeeping  
14 requirements imposed by the Commissioner or this subsection shall not be greater than  
15 those imposed by applicable federal law.

16       (d) If the information contained in any document filed with the Commissioner is  
17 or becomes inaccurate or incomplete in any material respect, the licensee shall promptly  
18 file a correcting amendment to the information contained in the document.

19 **"§ 93F-13. Validity of mortgage loan.**

20       A violation of any provision of this Chapter shall not invalidate the loan transaction  
21 or create liability for a subsequent holder of the loan who purchased the loan without  
22 knowledge of the violation. Failure to comply with the provisions of this Chapter shall  
23 not affect the validity or enforceability of any mortgage loan. However, this section  
24 shall not be construed as a limitation on the rights of a borrower to pursue any available  
25 remedy to redress a loss suffered as a result of the violation of this Chapter."

26       **SECTION 2.** All exempt persons described in G.S. 93F-1(5), enacted by  
27 Section 1 of this act, who are engaged in the mortgage brokerage or mortgage banking  
28 business shall be required to file with the Commissioner, within 90 days of the effective  
29 date of this act or upon the commencement of mortgage brokerage or mortgage banking  
30 business in this State, a statement on a form prescribed by the Commissioner setting  
31 forth the name of the respective exempt person, the basis of the exempt status of the  
32 exempt person, the principal business address of the exempt person, and the State or  
33 federal regulatory authority responsible for its supervision, examination, or regulation,  
34 if any. In addition to any other measures the exempt person may be subject to under  
35 Chapter 93F, enacted by Section 1 of this act, failure by an exempt person to file the  
36 required form shall not affect the exempt status of the person. However, the entity shall  
37 be subject to a civil penalty set by the Commissioner that shall not exceed the sum of  
38 two hundred fifty dollars (\$250.00) for each year the form is not filed. No person  
39 required to file under this section may transact business in this State as a mortgage  
40 banker or mortgage broker unless the person has filed the prescribed form with the  
41 Commissioner in accordance with this section.

42       **SECTION 3(a).** Any person who, on the effective date of this act, is  
43 engaged in business and registered as a mortgage broker or mortgage banker shall not  
44 be required to file an application under Chapter 93F-5, enacted by Section 1 of this act,

1 and shall be entitled to issuance of a license under Chapter 93F, enacted by Section 1 of  
2 this act.

3       **SECTION 3(b).** Any qualified person who shall file, within 180 days after  
4 this act becomes effective, a sworn application with the Commissioner stating that he or  
5 she has met the definition of a qualified person under G.S. 93F-1(17), enacted by  
6 Section 1 of this act, including a statement that he or she has not been convicted of any  
7 felony or any felony or misdemeanor involving moral turpitude, shall be issued a license  
8 as a loan officer from the Commissioner without having to meet the requirements for  
9 licensure under G.S. 93F-5(b), enacted by Section 1 of this act.

10       **SECTION 3(c).** Any qualified lender who shall file, within 90 days after this  
11 act becomes effective, a sworn statement with the Commissioner that consists of a list  
12 of its loan officers in North Carolina, the addresses of its principal office and each of its  
13 branches, and the names and addresses of the managing principal and each of its branch  
14 managers and states that no employee, loan officer, or individual with a controlling  
15 interest in the lender has been convicted of any felony or any misdemeanor involving  
16 moral turpitude, shall be issued a license as a mortgage banker from the Commissioner  
17 without having to meet the requirements for licensure under G.S. 93F-5(c), enacted by  
18 Section 1 of this act.

19       **SECTION 4.** On or after July 1, 2003, any individual mortgage banker,  
20 mortgage broker, or loan officer desiring to renew a license shall offer evidence  
21 satisfactory to the Commissioner that he or she has complied with the continuing  
22 professional education requirements approved by the Commissioner pursuant to G.S.  
23 93F-7, enacted by Section 1 of this act.

24       **SECTION 5.** This act becomes effective July 1, 2002.