

# CHAPTER 15

## State Board of Financial Institutions

### ARTICLE 1 BANKING, COMMERCIAL PAPER AND FINANCE

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

(1) Except as hereinafter provided or otherwise permitted by law no bank or banking institution shall purchase for its own account any shares of stock in any corporation except as provided in subsection (7) hereof.

(2) The purchase of securities which are in default, either as to principal or interest, is prohibited.

(3) Purchase of an "investment security" at a price exceeding par is prohibited, unless the bank shall:

(a) Provide for the regular amortization of the premium paid, so that the premium shall be entirely extinguished at or before the maturity of the security and the security (including premium) shall at no intervening date be carried at an amount in excess of that at which the obligor may legally redeem such security; or

(b) Set up a reserve account in order to amortize the premium, said account to be credited periodically with an amount not less than the amount required for amortization under (a) above, or

(c) Charge such premium to undivided profits account or reserve account of said bank at the time of purchase.

(4) Purchase of securities convertible into stock at the option of the issuer is prohibited.

(5) Any purchase of securities under repurchase agreement is deemed to be a "loan" and is to be so treated and classified and is hereby made subject to all laws, rules and regulations governing loans and specifically as to Sections 34-13-50 to 34-13-70, S.C. Code 1976. However, these limitations do not apply to the purchase of bonds, notes, certificates of indebtedness, or Treasury bills of the United States under agreement to resell.

(6) Any sale of securities under repurchase agreement is deemed to be "money borrowed" and is to be so treated and classified.

(7) Subject to the approval of the Board of Bank Control, banks may own stocks in subsidiary corporations primarily engaged in a banking activity or in an activity which, in the opinion of the Board, is so closely related to banking as to be a proper incident thereto, PROVIDED, that the bank owns at least 80% of the outstanding stock of the corporation or corporations: and PROVIDED further, that the initial investment and any future direct investments in one such corporation shall not exceed 15% of the total of the bank's capital and surplus accounts, or the aggregate of such investments in all such corporations shall not exceed 50% of the total of the bank's capital and surplus accounts. PROVIDED still further, that the restrictions contained in the two immediately preceding PROVISOS shall not apply to nor be affected by ownership in corporations organized to hold title to banking house properties, specified in § 34-3-210(3)(c), S.C. Code, 1976, but investments in these corporations may be regarded as investments in bank fixed assets.

**HISTORY:** Amended by State Register Volume 16, Issue No. 11, eff November 27, 1992.

#### **15-2. Limitations and Restrictions on Borrowing by Savings and Loan Institutions.**

No State chartered building and loan association in South Carolina shall borrow money without first securing approval in writing of the state board of financial institutions.

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

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

### **15-4. State Bank Dividends.**

Any State bank contemplating the payment of a cash dividend shall first file with the office of the Commissioner of Banking, Board of Bank Control, an income and expense report as required by Regulation 15-28, and second shall secure the approval in writing of the Board of Bank Control before paying the dividend.

### **15-5. Investment of Surpluses.**

Any cash depository may invest or loan only its surplus, whether earned or paid-in, and undivided profits in any such loans and any such investments as are permitted by existing statutes for duly chartered State banks, and in making any such loans or investments shall be subject to the same rules, regulations, and statutes as apply to loans and investments by such banks.

### **15-6. Insurance and Fidelity Bond Protection.**

All insurance (burglary, robbery, etc.), and fidelity bond policies now held by cash depositories, except fire insurance policies which are specifically exempted from the provisions of this rule and regulation, together with all additions to or renewals of same, shall be filed with the examining department of the state board of bank control, and the chief bank examiner is authorized and directed to execute and issue to each cash depository proper receipts therefor. (This rule filed in the Office of the Secretary of State May 18, 1937.)

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

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

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

- (a) A certificate of title or other satisfactory certificate of insurance as to the title of the property and the status of all assessed taxes. Such certificate shall be made and dated after the mortgage is recorded.
- (b) An appraisal of the mortgaged premises in writing.

#### EXCEPTION

The restrictions and limitations of these regulations do not apply:

1. To loans or advances of credit already made.
2. To loans or advances of credit not exceeding two thousand dollars.
3. In connection with any loan insured or guaranteed by any Federal agency and the agency makes a written appraisal of the property, that appraisal may be used instead of the appraisal required by (b) above.
4. To security taken in good faith by way of compromise of a doubtful claim or to avert an apprehended loss in connection with a debt previously contracted.

### **15-8. Published Reports of Condition, Savings and Loan.**

Any building and loan association operating under supervision of the state board of bank control shall publish in a newspaper in the county in which the association does business, upon call of the chief examiner, a report of condition, which report shall contain a statement under oath by the president and/or secretary-treasurer of such institution and shall be in such form as may be prescribed by the

board of bank control. Provided, that in counties in which no newspaper is published the said statement shall be published in some newspaper having general circulation within the county in which the association is located. (This rule filed in the Office of the Secretary of State January 2, 1942.)

### **15-9. Limitations and Restrictions on Loans, Savings and Loan.**

Limitations and restrictions on loans by Building and Loan Associations operating under the authority and control of the said State Board of Bank Control other than loans secured by first mortgages on real estate and by its own shares.

(a) Except as hereinbefore provided or otherwise permitted by law, no Building and Loan Association shall make any loan or advance of credit of any nature which is not secured by a first mortgage on real estate or by assignment of shares of the Association.

(b) The restrictions and limitations of this regulation do not apply:

1. To loans or advances of credit already made.
2. To security taken in good faith by way of compromise of a doubtful claim or to avert an apprehended loss in connection with a debt previously contracted. (This rule filed in the Office of the Secretary of State July 20, 1942.)

### **15-10. Participation in RFC Loans.**

Any bank may participate in any loan made or granted by the Reconstruction Finance Corporation, to an amount not in excess of the limitations imposed by §§ 34-13-50 to 34-13-80, S. C. Code 1976; and any bank may make and grant loans in any amount, which are participated in by Reconstruction Finance Corporation, or which that Corporation agrees to participate in; provided, the bank shall first obtain from that Corporation its commitment to purchase from the bank within a reasonable time after demand (to be agreed upon in the agreement of commitment) the amount in excess of the limitations imposed by the Sections of the Code mentioned above. (This rule filed in the Office of the Secretary of State March 29, 1943.)

### **15-11. Servicemen's Readjustment Act.**

Specific limitations as to the extent to which banks may invest their funds in loans partially guaranteed under Servicemen's Readjustment Act:

Any bank, operating under the supervision of the Board of Bank Control and accepting demand deposits, shall confine the aggregate amount of loans, partially guaranteed under the provisions of Title III of the Servicemen's Readjustment Act of 1944, and which have maturities in excess of five years, to an amount not exceeding its combined capital and surplus, and

Provided further, that the total amount of any such loan to any one person shall not exceed 10% of the capital and surplus of any such bank, except that by approval, in writing, by two-thirds of the Directors of the bank, the amount may be extended to 15% of the bank's capital and surplus. (This rule filed in the Office of the Secretary of State March 22, 1945.)

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

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

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

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

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

Every State chartered bank may make real estate loans secured by first liens upon forest tracts which are properly managed in all respects. Such loans shall be in the form of an obligation or obligations secured by mortgage or other such instrument; and any State chartered bank may purchase any obligation so secured when the entire amount of such obligation is sold to the bank. The amount of any such loan shall not exceed 40 per centum of the appraised value of the economically marketable timber offered as security and the loan shall be made upon such terms and conditions as to assure that at no time shall the loan balance exceed 40 per centum of the original appraised value of the economically marketable timber then remaining. No such loan shall be made for a longer term than two years; except that any such loan may be made for a term not longer than ten years if the loan is secured by an amortized mortgage or other such instrument under the terms of which the installment payments are sufficient to amortize the principal of the loan within a period of not more than ten years and at a rate of at least 10 per centum per annum.

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

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

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

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

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

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

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

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

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

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

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

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

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

## 15-14. Retention of Bank Records.

(Statutory Authority: 1976 Code §§ 34-1-60, 34-3-510 through 34-3-550)

### Section I—Non-computerized Bank Records

	Minimum Retention Period
<i>Statutory Requirements:</i>	
Minutes Books of Meetings of its Shareholders and Directors . . . . .	Permanent
Capital Stock Ledger . . . . .	Permanent
Daily Statements of Condition . . . . .	Permanent
General Ledger . . . . .	Permanent
Copies of Bank Examination Reports . . . . .	Permanent
Investment Ledger . . . . .	Permanent
<i>Auditing and Accounting:</i>	
Accrual and Bond amortization records . . . . .	4 years
Audit copy of debits and credits to Loans and Discounts . . . . .	6 months
Audit work papers . . . . .	1 year
Bank Call Reports . . . . .	5 years
Budget work sheets . . . . .	1 year
Daily reserve computation . . . . .	2 years
Discrepancy records . . . . .	2 years
Earnings and Dividend reports . . . . .	5 years
Internal reports to Executive Committee or Directors . . . . .	5 years
Securities Vault "In and Out" tickets . . . . .	1 year
Tax records . . . . .	20 years
All trial balances . . . . .	1 year
Record of all assets charged off . . . . .	20 years
<i>Capital:</i>	
Dividend Checks (Paid and cancelled) . . . . .	7 years
Dividend check register . . . . .	7 years
Proxies . . . . .	2 years
<i>Investments:</i>	
Brokers' Confirmation . . . . .	2 years
Brokers' Invoices . . . . .	10 years
Brokers' Statements . . . . .	10 years
<i>Loans and Discounts:</i>	
Audit copy of debits and credits to L & D . . . . .	6 months
Collateral receipts . . . . .	20 years
Collateral register or cards . . . . .	20 years
Debit and credit tickets other than General Ledger tickets . . . . .	1 year
<i>Loan and Discount Journal:</i>	
(A) If Journal is a by-product of posting to General Ledger . . . . .	1 year
(B) If Journal is used as book of original entry with descriptions . . . . .	10 year
Liability Ledger . . . . .	15 years
Loan Applications . . . . .	Life of loan
Margin Cards . . . . .	5 years
Loan and Discount Register . . . . .	15 years
Receipts for coupons removed from collateral . . . . .	10 years
Loan and Discount tickler . . . . .	2 years
Resolutions to borrow . . . . .	10 years
Financial Statements and Credit files . . . . .	Life of loan
<i>Personnel:</i>	
(Wage and Hour Division—U. S. Dept. of Labor)	
Time cards . . . . .	2 years
Salary Ledger . . . . .	3 years
<i>Proof and Clearings:</i>	
Clearing house settlement sheets . . . . .	6 months
Copies of advices of corrections . . . . .	6 months
Department proof sheets . . . . .	6 months

	Minimum Retention Period
Deposit proof sheets or master tapes of proof machine .....	6 months
Out of town clearings proof sheets .....	6 months
<i>Tellers:</i>	
Cash item record .....	2 years
Receipts for return items .....	6 months
Return items record book .....	6 months
Tellers Cash Book .....	3 years
Tellers cash tickets, original and carbon copies .....	3 months
Tellers recapitulation .....	6 months
Tellers blotter, journal or proof .....	3 years
<i>Cash and Due from Banks:</i>	
Incoming cash letters memos for remittance .....	3 months
Incoming cash letters for credit .....	3 months
Outgoing cash letters memos for credit or remittance .....	6 months
Advices of credit or debit .....	6 months
Proof sheets .....	6 months
Bank statements .....	6 months
Reconciliation ledger or register .....	2 years
<i>Due to Banks:</i>	
Incoming cash letters memos for credit .....	6 months
Incoming cash letters for remittance .....	6 months
Advices of Credit or Debit .....	6 months
Proof sheets .....	6 months
Country bank ledger .....	10 years
Ledger Journal .....	6 months
Copies of Advices .....	6 months
Reconcilement verifications .....	6 months
Resolutions .....	2 years
Signature Cards (After account closed) .....	10 years
<i>Commercial Deposits (Demand):</i>	
Bookkeepers daily list of checks charged in total .....	1 year
Deposit tickets and other credits .....	3 years
Individual ledger sheets (After last entry) .....	10 years
Individual Ledger Journal .....	6 months
Resolutions .....	20 years
Signature cards (After account closed) .....	20 years
Statements undelivered .....	10 years
Stop payment orders .....	1 year
<i>Savings Deposits:</i>	
Deposit Tickets .....	7 years
Journal .....	6 months
Ledger cards or sheets (After last entry) .....	10 years
Machine control journal tapes (No ticket plan) .....	5 years
Machine control journal tapes (with tickets) .....	1 year
Resolutions .....	20 years
Signature cards (after account is closed) .....	10 years
Savings Checks .....	10 years
<i>Certificates of Deposit:</i>	
Certificates (After date paid) .....	10 years
Register or Ledger .....	10 years
Carbon copies if used as register .....	10 years
<i>Christmas Savings or Similar Clubs:</i>	
Checks (After date paid) .....	1 year
Check Register .....	1 year
Carbon copies of checks .....	1 year
Coupons (Used as deposit tickets) .....	1 year
Ledger Sheets or cards .....	1 year
Withdrawal receipts .....	1 year
Signature cards .....	1 year
<i>Official Drafts and Checks:</i>	
Cashiers checks and bank money orders (After paid) .....	7 years

	Minimum Retention Period
Certified checks or receipts for same (After paid) .....	7 years
Drafts (After paid) .....	7 years
Expense checks (After paid) .....	7 years
Official checks and draft check registers .....	7 years
Carbon copies if used as register (After paid) .....	7 years
Affidavits, indemnities, etc., pertaining to lost drafts and checks .....	Permanent
<i>Insurance Records:</i>	
Casualty Liability policies (Expired) .....	1 year
Bankers blanket bonds, theft, forgery, safe deposit and other forms of insurance issued for same purpose (Unless present bond covers all liability in prior bonds) .....	Permanent
<i>Collections:</i>	
Collections receipts, carbons of .....	2 years
Collection register .....	2 years
Coupon—Cash letters outgoing (After settlement) .....	6 months
Departmental blotter, journal or proof .....	3 years
Incoming collection letters .....	6 months
Installment contract or note records (After closed) .....	3 years
<i>Customers Service:</i>	
Brokers' Confirmation .....	3 years
Brokers' Invoices .....	3 years
Brokers' Statements .....	3 years
Safekeeping records and receipts (After close) .....	3 years
Securities—"Buy and sell orders" .....	7 years
<i>Safe Deposit Vault:</i>	
Access tickets .....	10 years
Cancelled signature cards .....	10 years
Correspondence pertaining to authorization (After closed) .....	10 years
Lease or contracts—Closed accounts (After close) .....	10 years
Ledger record of account .....	1 year
Night depository agreements (After closed) .....	1 year
Night depository receipts (After closed) .....	1 year
<i>Trust Department:</i>	
Cash Ledger .....	Permanent
Checks .....	Permanent
Document Files .....	Permanent
Property Controls .....	Permanent
Property Ledgers .....	Permanent
Correspondence Files .....	7 years
Posting Tickets .....	7 years
Journals .....	7 years
Trial Balances .....	7 years
Daily Blotters .....	7 years
Bank Account Reconcilements .....	7 years

## Section II—Computerized Bank Records

### AUTOMATED SYSTEMS QUALIFICATIONS AND DEFINITIONS

The following statements are extremely important when applying the recommendations stated in this schedule to your bank.

Within this schedule terminology and descriptive phrases are listed to identify types of records rather than specific titles which may be meaningful only to a few banks. If a bank does not maintain records enumerated herein but maintains a similar record with equivalent information, the bank's records should be retained for the period of time specified herein as to the equivalent record. If a record is not included in this schedule, the applicable federal or state regulation would apply. The described retention periods are minimum periods and may be increased at the discretion of the individual bank.

Photographic copies or reproductions of records shall be treated as the equivalent of an original record. (See Code of Laws 1976 Sec. 34-3-540.)

**DATA PROCESSING DEPARTMENT**

Note: When a report generated by electronic data processing equipment is the original document (such as general ledgers, check registers, etc.) the retention periods for the records are described under the applicable record title. Generally, copies of reports will not be retained in the data processing department, but will be the responsibility of the department receiving the report. (See end of this regulation for meaning of abbreviations.)

		Minimum Retention Period
<b>INTERNAL CONTROL DOCUMENTS</b> .....	3 M	After Audit
Input Logs		
Output Logs		
Run Books		
Computer Operating Logs		
Exception Reports (reruns, error halts, etc.)		
Et Cetera		
<b>PROGRAM DOCUMENTATION</b>		
Program Modifications .....	Retain thru at least three cycles	
Operators Instructions .....	Retain thru at least three cycles	
Program Listing .....	Current cycle	
Supporting Program Documentation .....	Life of program plus one year	
Program Test Data and Results .....	Life of program plus one year	
Program Change Log .....	Life of program plus one year	
<b>TRANSACTION RECORDS</b>		
Punched Cards and Punched Paper Tape .....	After processing, unless card or tape is original docu- ment. If card or tape is original document, retain since last record needed for reconstruction.	
Disc .....	Three cycles	
Magnetic Tape .....	Three cycles	
Magnetic Drum .....	Three cycles	
Magnetic Cards .....	Three cycles	
Magnetic Cells .....	Three cycles	
<b>COMPUTER FILES FROM:</b>		
On-line Terminal .....	Since last record needed for reconstruction	
On-line CRT .....	Same as above	
<b>USER BANK OR DEPARTMENT</b>		
Convert and Edit Lists .....	1 Y A	
Control Exception Reports .....	1 Y A	
Final Transaction Journal or First Trial Balance .....	Same retention period as stated in Section I	
<b>INPUT MEDIA—(OTHER THAN DATA PROCESSING DEPARTMENT) TO BE RE- TAINED FOR THE SAME PERIOD AS OTHER REPORTS SCHEDULED HEREIN, UNLESS OTHERWISE STATED.</b>		
<b>GENERAL LEDGER ACCOUNTING</b>		
Accrual Records		
Daily, Weekly Accrual Reports, Monthly Closing .....	4 Y A	
Supporting Tax Returns .....	7 Y C	
Bank Statements (Own Account) .....	3 Y A	

		Minimum Retention Period
Capital Stock .....	P	
Daily Reserve Record .....	2 Y	A
Daily Statement of Condition .....	P	
Depreciation Records .....	5 Y	C
Discrepancy Records .....	2 Y	C
Earnings and Dividend Reports .....	5 Y	C
Escheat Records .....	P	
Personal Property		
Real Property		
General Ledger .....	P	
Internal Reports to Executive Committee or Directors .....	5 Y	A
Paid Bills Record .....	7 Y	C
Regulatory Reports .....	5 Y	A
Call Reports		
FDIC Report		
Public Law 91-508 Reports		
State Reports		
Tax Records .....	20 Y	C
Trial Balances (All) except where noted otherwise .....	1 Y	A
CAPITAL		
Dividend Check Records .....	7 Y	A
Proxy Records .....	2 Y	A
PERSONNEL		
Attendance Records (Time Cards, etc.) .....	2 Y	A
Salary Records .....	3 Y	A
Disability Records .....	5 Y	After termination of employee
Pension Records & Profit Sharing .....	P	
Personnel Files .....	5 Y	After termination of employee     Note: Only important rec- ords such as history records should be retained for 5 years.
TAX FORMS		
Employee Withholding Exemption Certificate W-4 .....	4 Y	After termination of employee
Quarterly Report on Tax Payments Forms 940, 941 .....	7 Y	C
Withholding Tax Forms W-2, W-3 .....	4 Y	After due date of tax or the date such tax is paid, which- ever is later.
INVESTMENTS		
Investment Ledger .....	P	
Brokers' Confirmation .....	2 Y	A
Brokers' Invoices .....	10 Y	C
Brokers' Statements .....	10 Y	A
Buy and Sell Orders .....	5 Y	A
Dividend Records .....	5 Y	C
Investment and Securities .....	7 Y	C
Files		
Assignments		
Correspondence		
Court Orders		
Receipts		
Et Cetera		
Journals Containing Details Supporting Ledgers and Tax		
Returns .....	7 Y	C
Others .....	3 M	A
Customer Safekeeping .....	4 Y	A
Receipts		
Statements		
Agreements or Contracts		

		Minimum Retention Period
Ledgers		
CHECKING ACCOUNTS		
Master File Change .....	5 Y	A
Unposted Items .....	9 M	A
Overdrafts .....	6 M	A
Stop Payment Request .....	1 Y	A
Service Charges .....	3 M	A
Customer Statement .....	10 Y	A
Transaction Journal .....	6 M	5 years if needed to reconstruct account
Trial Balance .....	6 M	5 years if needed to reconstruct account
Proof Machine Listings or Entry Run .....	6 M	same as above
"On Us" Microfilm (checks and deposits) .....	10 Y	A
Transit Microfilm .....	10 Y	A
Correction Orders (Additions and Deletions) .....	2 Y	A
New Account Source Documents .....	6 M	A
Account Suspect Reports .....		optional
Dormant Account Report .....	6 M	A
NSF Notices or Report .....	6 M	A
Signature Cards .....	20 Y	B
Resolutions .....	20 Y	B
Exception Reports .....	3 Y	A
SAVINGS ACCOUNTS		
Daily Transactions Journal .....	6 M	5 years if needed to show account activity
Trial Balance .....	6 M	same as above
Exceptions Report .....	1 Y	A
Open Accounts .....	1 Y	A
Closed Accounts .....	10 Y	A
Inactive Accounts .....	1 Y	A (Permanent if report does not include previous accounts)
Accounts taken into Income .....	1 Y	same as above
Edit Report .....	3 M	A
Interest Report .....	2 Y	A
1099 Listings .....		optional
Master File Change .....	5 Y	A
Deposit and Withdrawal Slips .....	10 Y	A
Savings Checks Report .....	10 Y	A
Savings Statements .....	10 Y	A
New Account Source Documents .....	2 Y	A
Passbooks .....		Cancel by perforation and return to customer or take up book and destroy after 1 month.
Signature Cards .....	10 Y	B
CERTIFICATES OF DEPOSIT OR SAVINGS CERTIFICATES		
Certificates (after date paid) .....	10 Y	B
Trial Balance (exception to Accounting Section) .....	10 Y	A
Payment Journal .....	10 Y	A
Edit Report .....	3 M	A
Interest Accrual Record .....	2 Y	A
Exceptions Report .....	2 Y	A
Paid Out Lists .....	10 Y	A
Maturity Schedules .....	1 Y	B
Interest Due Report .....	1 Y	A
New Account Source Documents .....	2 Y	A
Master File Change .....	5 Y	A
1099 Listing .....		optional
Interest Check Report .....	10 Y	A

		Minimum Retention Period
Signature Cards .....	10 Y	B
<b>COMMERCIAL LOANS</b>		
Transaction Journals .....	2 Y	A
Collateral Substitution Records .....	20 Y	B
Collateral Receipts .....	20 Y	B
Collateral Register .....	20 Y	B
Margin Records .....	5 Y	B
Debit and Credit Entries (General Ledger) .....	P	
Debit and Credit Entries other than General Ledger .....	3 Y	A
Liability Ledger .....	15 Y	A
New Loan Report .....	2 Y	A
Loans Paid Report .....	2 Y	A
Resolutions .....	10 Y	B
Credit Files Containing Applications, Authorizations, Appraisals, Credit Reports, etc. ....	5 Y	B
Interest Records .....	10 Y	C
Payment Records .....	2 Y	A
Loan Applications .....	5 Y	B
Financial Statements .....	5 Y	B
Trial Balances (if needed to show complete history of borrower) .....	5 Y	A
Past Due Report .....	optional	
Loan Exception Report .....	1 Y	A
Monetary Reject Report .....	1 Y	A
Batch Balancing Records .....	1 Y	A
Source Documents .....	2 Y	A
Edit Reports .....	3 M	A
Master File Change .....	5 Y	A
Reports Supporting Tax Returns .....	10 Y	C
Loan Status Reports .....	optional	
Paid Notes Undelivered .....	5 Y	After note is paid
Charge Off Records .....	20 Y	A
Rebate Records .....	2 Y	After note is paid
Accrual Records .....	10 Y	C
<b>CHRISTMAS SAVINGS OR SIMILAR CLUB</b>		
Checks (cancelled—after paid) .....	1 Y	B
Check Register .....	1 Y	B
Coupons (deposit tickets) .....	1 Y	A
Trial Balance .....	1 Y	A
Transaction Journal .....	1 Y	A
Withdrawal Receipts .....	1 Y	A
Passbooks/Coupon Books .....	Cancel by perforation and return to customer or take up book and destroy after 1 month.	
New Account Source Documents .....	1 Y	A
Master File Change .....	1 Y	A
Edit Report .....	1 Y	A
Signature Cards .....	1 Y	B
<b>INSTALLMENT LOANS</b>		
Payment Journal .....	3 Y	A
Trial Balances (if needed to show complete history of borrower) .....	5 Y	A
New Loan Report .....	3 Y	A
Loans Paid Report .....	2 Y	A
Past Due Report .....	optional	
Loan Exception Report .....	1 Y	A
Monetary Reject Report .....	1 Y	A
Batch Balancing Records .....	1 Y	A
Escrow Reports (Dealer Reserve Documents) .....	10 Y	A
Charge Off Report .....	20 Y	A
Floor Plan Reports .....	2 Y	After agreement expires

		Minimum Retention Period
Source Documents .....	6 M	A
Edit Report .....	3 M	A
Master File Change .....	5 Y	A
Collateral Reports .....	20 Y	After collateral is released
Debit and Credit Entries .....	P	
Debit and Credit Entries other than General Ledger .....	3 Y	A
Interest Records .....	10 Y	C
Reports Supporting Tax Returns .....	10 Y	C
Loans Status Reports .....	optional	
Credit Files Containing Applications, Authorizations, Appraisals, Credit Reports, etc. ....	5 Y	A
Paid Notes Undelivered .....	5 Y	After note is paid
Rebate Records .....	2 Y	After note is paid
<b>OVERDRAFT CHECKING PLANS—LINES OF CREDIT</b>		
Payment Journal )		(Refer to applicable
Trial Balances )		(Checking Account or
Past Due Report ) .....		(Installment Loan
Master File Changes )		(Department record
Reports Supporting Tax Returns )		(retention section.
Credit Files )		
<b>REAL ESTATE LOANS</b>		
Same as Installment Loans Except:		
Delete: Floor Plan Reports		
<b>OFFICIAL CHECKS AND DRAFTS</b>		
Note: These may or may not be by-products of an automated system; however, this retention schedule is included for compliance with the Bank Secrecy Act and Public Law 91-508.		
Cashier's Checks .....	7 Y	After paid
Cashier's Check Registers .....	7 Y	A
Certified Checks and Receipts .....	7 Y	After paid
Certified Check Registers .....	7 Y	A
Drafts (cancelled) .....	7 Y	A
Draft Registers .....	7 Y	A
Expense Checks (cancelled) .....	7 Y	After paid
Expense Check Registers .....	7 Y	A
Expense Vouchers or Invoices .....	7 Y	A
Money Orders, Bank or Personal .....	7 Y	A
Money Order Registers .....	7 Y	A
Affidavits, Indemnities, etc. ....	P	
Other Official Checks and Registers .....	7 Y	After paid
Records of Incoming and Outgoing Advices, Requests, or Instructions Pertaining to Transfer of Funds 10M or Over, Per Bank Secrecy Act (See Accounting Section) .....	5 Y	A
<b>CREDIT CARD DEPARTMENT</b>		
Activity Register of Accounting Entries		
Detail Record .....	3 Y	A
Records Supporting Tax Returns .....	7 Y	C
Credit Card Transactions .....	3 Y	A
Adjustments		
Listings		
Payments		
Sales Drafts		
Statements .....	5 Y	A
Charge Off Records .....	7 Y	C
Coupon Payment Records .....	3 Y	A
Merchants Activity Reports .....	3 Y	A
Deposit Document Forms .....	3 Y	A
New Accounts .....	2 Y	A
Closed Accounts .....	2 Y	A
Edit Reports .....	3 M	A
Detail Payment Register .....	7 Y	C
Trial Balances .....	1 Y	A

		Minimum Retainment Period
Earnings Report .....	5 Y	C
Master File Changes .....	5 Y	A
Source Documents .....	6 M	A
<b>INTERNATIONAL DEPARTMENT</b>		
Collection Records or Registers .....	6 Y	After payment
Letters of Credit Records .....	7 Y	After cancellation
Currency Exchange Profit and Loss Records .....	7 Y	C
Records Supporting Tax Returns .....	10 Y	C
Edit Reports .....	6 M	A
Trial Balances .....	1 Y	A
Master File Changes .....	5 Y	A
Source Documents .....	6 M	A
Cable Copies and Requisitions .....	6 Y	A
Draft Applications and Copies .....	6 Y	A
Foreign Exchange Records .....	6 Y	A
Travelers Check Records .....	2 Y	A
<b>COLLECTIONS</b>		
Collection Receipt Copies .....	2 Y	A
Collection Register or Reports .....	2 Y	A
Report of Accounting Entries .....	3 Y	A
Edit Reports .....	1 Y	A
Trial Balances .....	1 Y	A
Source Documents .....	6 M	A
<b>TRUST DEPARTMENT</b>		
Advices of Payment .....	1 Y	A
Securities Department Bond and Coupon Collections		
Amortization Schedules .....		Destroy when securities are disposed of.
Buy and Sell Orders .....	1 Y	A
Cancelled Bonds and Cancelled Coupons .....		Return to issuing corporation or cremate, retaining receipt or cremation certificate until the account is closed.
Cash Trial Balances .....		P
Corporate Trust Ledger .....	7 Y	A
Correspondence .....		P
Corporate Trust (Bond Issues)		
Dividend		
General		
Irregular Transfer		
Cost Cards, Securities .....	5 Y	A
Coupon Collection Record .....	18 M	A
Coupon Envelopes .....		optional
Daily Statement of Trust Department .....	3 Y	A
Dividend Check Tapes (adding machine) .....		optional
Dividend Record Cards .....	8 Y	B
Dividend and Coupon Ledger .....		until closed
Dividend and Interest Disbursement Checks .....		P
Dividend and Interest Disbursement List .....		P
Document Files .....		P
Fee Cards .....		until closed
Journal Sheets, Accounting Division and Stock Transfer .....	7 Y	A
Ledger Records: Asset Ledger, Cash Ledger, Investment Ledger, Stock Transfer Ledger and Mutual Income Foundation .....		P
Listing for Form 1099 .....	1 Y	C
Minute Books, Trust Committee and Trust Investment Committee .....	50 Y	A
Original Trust Entries (daily debits and credits and multiple forms) .....	7 Y	A
Paid Invoices; Tradesman, Professional (including attorney) and miscellaneous .....	3 Y	A

	Minimum Retention Period
<p>Note: In probate accounts retain three years after expiration of time of appeal from order closing account.</p>	
Probate Slips .....	Destroy original when account is closed. Destroy duplicate after circulation.
Registered Mail Report .....	3 Y A
Registration Journals .....	until closed
Rent Collection, Mortgage and Land Contract Collection (file accountant's copy) .....	5 Y A
Retirement and Profit Sharing Records .....	P
Signature Files .....	until closed
Stock Transfer Change-of-address Authority .....	1 Y B
Stock Transfer Memos .....	1 Y B
Stock Transfer Receipts .....	3 Y B
Stockholders List .....	optional
Supporting Papers to Transfers .....	10 Y A
<p>Note: Except recorded instruments and agreement from banks—return to transferor.</p>	
Surety Bonds .....	10 Y A
Tax Returns	
Ad Valorem Tax Returns .....	2 Y C
Estate Tax Returns .....	15 Y C
Federal and State Income Tax Returns .....	5 Y C
Intangible Tax Returns .....	2 Y C
Social Security Returns .....	5 Y C
Tellers Daily Register .....	7 Y A
Transfer Instructions .....	5 Y A
Transfer Journal Tapes .....	2 Y A
Transfer Tax Waivers .....	until closed
Trust Checks .....	until closed
Trust Register .....	until closed
Vouchers, Probate Trust .....	3 years after expiration of time of appeal from order closing account
Trial Balances .....	7 Y A
Edit Reports .....	1 Y A
<p>Note: The retention periods for the Trust Department function were based on the BAI publication "The Bank Secrecy Act and Retention of Bank Records."</p>	
DUE FROM BANKS	
Reconcilement Ledger or Register .....	2 Y A
Bank Statement .....	1 Y A
Advices from Correspondents .....	1 Y A
Drafts .....	7 Y After paid
Draft Registers .....	7 Y After paid
<p>Note: Affidavits, Indemnity Bonds and all pertinent information pertaining to issuance of duplicate checks</p>	
DUE TO BANKS	
Advices .....	1 Y A
Reconcilement Ledger or Registers .....	2 Y A
Country Bank Ledger .....	5 Y A
Incoming Cash Letter Memo/or Credit .....	6 M A
Incoming Cash Letters for Remittance .....	6 M A
Proof Runs .....	2 Y A
Reconcilement Verification .....	1 Y A
Opened Accounts Report .....	1 Y A
Closed Accounts Report .....	10 Y A
Resolutions .....	5 Y B
Signature Cards .....	5 Y B
Trial Balances .....	2 Y A
Undelivered Statements and Cancelled Checks .....	5 Y A

		Minimum Retention Period
Master File Change .....	3 Y	A
Edit Report .....	6 M	A
<b>TELLERS</b>		
Cash Item Record .....	2 Y	A
Return Items Record .....	1 Y	A
Tellers' Proof Record .....	3 Y	A
Transaction Records (detail) .....	3 Y	A
Machine Journal Records.....	3 Y	A
Transaction Log .....	3 Y	A
Cash Total Report .....	3 Y	A
<b>PROOF AND CLEARINGS</b>		
Clearing House Settlement Reports.....	6 M	A
Advices of Corrections .....	1 Y	A
Microfilm .....	2 Y	A
In Clearings Proof Report .....	2 Y	A
Out Clearings Proof Reports .....	2 Y	A
Outgoing Cash Letter Reports .....	2 Y	A
Master Tapes of Proof Machine .....	2 Y	A
Encoding Machine Tapes.....	3 M	A
<b>GENERAL LEDGER</b>		
Debits and Credits .....		P
Assets, Liabilities and Capital Account Ledgers .....		P
Daily Statement of Condition .....		P
Transaction Journals .....	2 Y	A
General Ledger Statement Reports .....		P
Income Statement .....	7 Y	C
Expense Statement .....	7 Y	C
Statements of Reserve Position .....	1 Y	A
Trial Balances .....	2 Y	A
Federal Funds Reports .....	1 Y	A
Edit Reports .....	3 M	A
Management Information Reports.....		optional
Master File Update Reports.....	5 Y	A

P—Permanent  
Y—Year  
M—Month

A—After Date of Record  
B—After Account is Closed  
C—After Taxes are Filed

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

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

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

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

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

State Chartered Savings and Loan Associations and/or Building and Loan Associations are hereby authorized to make any loan for property alteration, repair or improvement that is accepted for insurance by the Federal Housing Administrator under the provisions of the National Housing Act, as now or hereafter amended, for such amount and repayable upon such terms and within such periods as are acceptable to the insuring agency; provided, the total amount of all loans for property alteration, repair, or improvement shall not, at any time, exceed fifteen percent (15%) of the association's assets.

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

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

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

## **15–18. Brokered Deposit Funds.**

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

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

## **15–19. Mobile Home Loans, Savings and Loan.**

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

Savings and Loan Associations may make loans for the purpose of financing the purchase of mobile homes as prescribed by § 34-25-140 of the 1976 Code and may also make loans for the purpose of financing the purchase of mobile homes under the Rules and Regulations established by the Federal Home Loan Bank Board; provided, the Rules and Regulations of the Federal Home Loan Bank Board do not conflict with State laws.

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

(Statutory Authority: 1976 Code § 34–1–60)

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

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

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

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

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

## **15–23. Home Improvement Loans, Savings and Loan.**

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

State chartered savings and loan and building and loan associations may make “Home Improvement Loans” under Title I FHA or other loans for property alterations, repair or improvement in an amount not exceeding \$10,000.00, said loans to be paid in equal monthly installments for a term not to exceed ten (10) years. The total of all such loans outstanding at any time shall not exceed 15% of the association’s assets.

## **15–24. Borrower’s Preference Re Attorney and Insurance.**

(Statutory Authority: 1976 Code §§ 29-3-210 through 29-3-240)

Sections 29-3-210 to 29-3-240 of the 1976 Code provide in part, that, any bank, mortgage banker, insurance company, building and loan association, or other lending institution that makes a loan to a borrower in the amount of five thousand dollars (\$5,000.00), or more that is secured by a real estate mortgage, the lender shall ascertain the preference of the borrower as to the legal counsel that shall be employed to represent the borrower in all matters of the transaction and the insurance agent to furnish required insurance in connection with the loan and shall comply with such preference.

Sections 29-3-210 to 29-3-240 of the 1976 Code also provide that the State Board of Bank Control shall inquire into these matters, shall provide for implementation of said sections, and promulgate rules and regulations therefor.

It is the intention of the Board of Bank Control that §§ 29-3-210 to 29-3-240 of the 1976 Code be complied with by all financial institutions under its supervision—banks, savings and loan and building and loan associations, and credit unions—and has instructed examiners to determine during the course of the examinations if management is complying with said sections. To provide further for implementation of said sections, the Board of Bank Control by this Regulation is requiring that the Boards of Directors of all financial institutions under its supervision, pass a resolution and record it in the minute book of the institution to the effect that the institution is complying with said sections and that all loan officers of the institution have been instructed to comply with said sections.

## **15–25. Purchase of Property for Future Expansion.**

(Statutory Authority: 1976 Code § 34–1–60)

After prior approval of the Board of Financial Institutions, State chartered banks and State chartered savings and loan associations may purchase property for future expansion, provided that if the property is not used for the purpose for which it was purchased within five years from date of purchase, the financial institution shall charge off 25% of the cost price of the property before the end of the fifth year from date of purchase and continue such annual 25% charge-off program for the next successive three years so that at the end of eight years from date of purchase the property will be charged down to a book value of \$1.

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

## **15–26. Disposition of Real Property of Banks.**

(Statutory Authority: 1976 Code §§ 34-1-60 and 34-1-110)

Other real estate owned shall be disposed of within a period of five years, except upon written approval of the Board of Financial Institutions to extend the period up to an additional five years. The preferred method of disposition is through immediate sale at a price sufficient to cover the bank’s investment and costs of acquisition. When consummation of such a sale has not taken place, the following policy is to be initiated by the bank:

(a) The book value of each parcel of real estate should represent only the balance of the loan when transferred to an account titled, “Other Real Estate Owned.” Accrued interest, taxes and attorney fees should be charged off upon transfer.

(b) A new appraisal of the property should be made at the time of its acquisition. When book value exceeds this appraised value, the difference shall immediately be charged off and book value established at this appraised value.

**HISTORY: Amended by State Register Volume 19, Issue No. 5, eff May 26, 1995.**

## **15–27. Consolidated Report of Income and Expenses.**

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

Banks shall file with the office of the Commissioner of Banking, Board of Bank Control, a Consolidated Report of Income and Expense annually as of December 31st of each year on forms

furnished by the Board of Bank Control for this purpose. The report shall be filed not later than January 31st of the next year immediately following the year end date the report is to be rendered.

### **15-28. Income and Expense Statements Re Dividends.**

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

Banks shall file with the office of the Commissioner of Banking, Board of Bank Control, an income and expense report along with each request to the Board for the bank to pay a cash dividend to its stockholders. This report shall be filed on forms furnished by the Board of Bank Control, and shall be certified to by an officer of the bank and notarized. The report shall cover the period from January 1st through the last calendar quarter period prior to the date the board of directors of any bank shall declare any dividend.

### **15-29. Loans to Officers and Directors.**

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

Loans to officers and directors of a state bank shall be approved by two-thirds vote of the whole board of directors of the bank within ninety (90) days of the date of the note or any subsequent renewals thereof.

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

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

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

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

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

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

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

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

§ 545.6-1 Lending powers.

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

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

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

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

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

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

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

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

§ 545.6-2 Alternative mortgage instruments.

(a) General.

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

(b) Graduated-payment mortgage.

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

(2) Graduation period, rate, and frequency.

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

- (i) 7.5 percent annually for a graduation period of five or fewer years;
- (ii) 6.5 percent annually for six years;
- (iii) 5.5 percent annually for seven years;
- (iv) 4.5 percent annually for eight years;
- (v) 3.5 percent annually for nine years; and
- (vi) 3 percent annually for ten years.

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

(3) Borrower option to convert.

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

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

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

(6) Disclosure.

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

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

(c) Variable-rate mortgage.

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

(2) Restrictions.

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

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

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

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

(3) Index.

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

(4) Interest-rate adjustments.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) current and new rates;
  - (b) old and new index rates;
  - (c) accumulated but unused rate changes;
  - (d) current monthly payment and remaining maturity;
  - (e) for increases, a description of borrower's options, including the new payment and maturity if the loan is extended to the maximum; and
  - (f) for decreases, a description of the way the decrease will be applied.
- (5) Disclosure.

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

- (i) a side-by-side comparison of differing interest rates and other terms;
  - (ii) payment schedules for both types of instruments, including a "worst case" schedule for the variable rate mortgage showing every maximum increase at the time it could first occur, the highest possible payment during the loan term, and the total payment in dollars over the full term of each loan (with a notation stating that the total payment for the VRM would be greater in the event of loan extension);
  - (iii) information regarding the index used;
  - (iv) a description of borrower's options in the event of an interest-rate increase;
  - (v) a statement, prominently displayed, that borrowers have the option to elect a standard mortgage instrument; and
  - (vi) a statement that if the prospective borrower has questions regarding the disclosures, s/he may contact (title, telephone number, and address of officer) at the Federal Home Loan Bank of (\_\_\_\_\_).
- (6) Multi-year variable rate mortgage.

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

(d) Reverse-annuity mortgage.

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

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

(3) Requirements.

- (i) Loan applicants shall not be bound for seven days after the loan commitment is made.
- (ii) Associations shall obtain a statement signed by the borrower acknowledging disclosure of all contractual contingencies which could force a sale of the home.
- (iii) If the mortgage has a fixed term, refinancing shall be made available at market rates current at the time payment is due.

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

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

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

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

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

(ii) schedule of outstanding debt over time;

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

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

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

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

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

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

(ix) initial loan fees and charges;

(x) description of prepayment and refinancing features; and

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

3. Section 555.4 is deleted.

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

This regulation became effective April 18, 1980.

## **15-32. Home Improvement Loans.**

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

State-chartered savings and loan associations are authorized to make home improvement loans under the same terms and conditions as permitted federally chartered savings and loan associations by Section 545.6-3 of the Home Loan Bank Board Regulations amending Section 545.6-12 of the Home Loan Bank Board Regulations effective November 17, 1980.

The Home Loan Bank Board's amended regulation reads as follows:

"Section 545 Home improvement loans.

"An association may invest in loans, with or without security, for residential real property alteration, repair or improvement, or for equipping or furnishing residential real property, with installments payable at least quarterly, the first installment due no later than 120 days from the date the loan is made and the final installment due no later than 20 years and 32 days from such date. Installments shall be substantially equal except to the extent that the loan complies with one of the mortgage plans authorized under Sections 545.6-4 or 545.6-4a of this Part."

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

This regulation became effective January 22, 1982.

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

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

State-chartered savings and loan associations are authorized to make loans secured by second mortgages on real estate under the same terms and conditions as permitted federally chartered savings

and loan associations by Section 545.6-26 of the Home Loan Bank Board Regulations existing on September 5, 1979.

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

“§ 545.6-26 Non-conforming secured loans.

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

**Editor's Note**

This regulation became effective April 18, 1980.

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

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

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

**Editor's Note**

This regulation became effective Feb. 20, 1981.

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

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

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

**Editor's Note**

This regulation became effective June 5, 1981.

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

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

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

**Editor's Note**

This regulation became effective July 24, 1981.

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

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

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

### **Editor's Note**

This regulation became effective June 5, 1981.

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

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

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

### **Editor's Note**

This regulation became effective June 5, 1981.

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

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

State-chartered savings and loan associations are authorized to exercise trust powers under the same terms and conditions as permitted federally chartered savings and loan associations by Sections 550.1 through 550.16 of the Federal Home Loan Bank Board Regulation 550 adopted by the Board on November 26, 1980, effective January 1, 1981.

### **Editor's Note**

This regulation became effective July 24, 1981.

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

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

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

### **Editor's Note**

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

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

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

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

### **Editor's Note**

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

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

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

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

### **Editor's Note**

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

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

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

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

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

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

### **Editor's Note**

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

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

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

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

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

### **Editor's Note**

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

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

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

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

**Editor's Note**

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

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

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

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

**Editor's Note**

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

**15-39H. Financial Institutions May Share in Ownership or Lease and Operation of Freestanding Automatic Teller Machine Branches.**

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

If two or more financial institutions want to share in the ownership or lease and operation of a free-standing ATM, the following procedure is applicable:

- (a) The financial institution that owns or leases the ATM shall make application to the Board of Financial Institutions to operate an ATM branch.
- (b) All other sharing financial institutions need only notify the office of the Commissioner of Banking by letter that the financial institutions are sharing in the operation of the ATM. Sharing financial institutions are not regarded as operating a branch at such location and would not need to make a branch application to the Board of Financial Institutions for an ATM branch.
- (c) Should two or more financial institutions want to share in the ownership and operation of an ATM, the group of financial institutions should designate one of the group to service the ATM and be responsible for its operation, and that financial institution should make application for the ATM branch and all sharing financial institutions need only notify the office of the Commissioner of Banking that they are only sharing in the operation of the ATM.

**Editor's Note**

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

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

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

State-chartered savings and loan associations may engage in personal property leasing under the same terms and conditions as permitted federally chartered savings and loan associations by Federal Home Loan Bank Board Regulation Parts 541 and 545 of Subchapter C and Part 561 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as amended by Regulation Number 82-21 dated January 14, 1982, of the Federal Home Loan Bank Board.

**Editor's Note**

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

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

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

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

### **Editor's Note**

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

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

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

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

### **Editor's Note**

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

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

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

State-chartered banks may purchase bank acceptances made by other banks in excess of 15% of the purchasing bank's capital stock, surplus, and capital notes and debentures, but not to exceed in the aggregate at any time more than 50% of the bank's paid-up capital stock, surplus, and capital notes and debentures, provided the acceptance purchased meets one of the following requirements:

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

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

### **Editor's Note**

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

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

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

State-chartered savings and loan associations are authorized to engage in financial options trading in the same manner as permitted federally chartered savings and loan associations by Federal Home Loan

Bank Board Regulations Parts 545 and 563, Subchapters C and D, Chapter V of Title 12, Code of Federal Regulations, Number 82-557, as amended August 11, 1982, effective September 13, 1982.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

disclosures related to rate variations comply with the variable rate disclosure requirements of the Truth in Lending Act (15 U.S.C. Sections 1601 *et seq.*), as implemented by Federal Reserve Board Regulation Z (12 C.F.R. Part 226), both as amended from time to time. (NOTE: When permitted by Regulation Z, compliance with variable rate mortgage disclosure requirements contained in regulations of other federal agencies, as amended from time to time, such as the disclosure provision of the Adjustable-Rate Mortgage regulation of the Comptroller of the Currency (12 C.F.R. Part 29) and the home loan disclosure provision of the regulations of the Federal Home Loan Bank Board (12 C.F.R. Part 545), may be substituted for Regulation Z variable rate disclosures.) Regulation was adopted March 22, 1985.

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

### **15-39R. Regulatory Net Worth Requirements.**

(Statutory Authority: 1976 Code §§ 34-1-60, 34-1-110)

All associations, as defined in Section 34-28-30(2) shall maintain, as a minimum, the regulatory net worth requirements that apply to all FSLIC insured associations.

The calculations and additions (if any) for regulatory net worth shall be reported to the Board within 20 Calendar days after the end of the preceding calendar quarter.

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

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

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

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

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

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

## **ARTICLE 2 COOPERATIVE CREDIT UNIONS**

### **Editor's Note**

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

### **15-40. Notice of Intention to Withdraw Shares.**

(Statutory Authority: 1976 Code § 34-27-30)

Plan of operation for credit unions where the board of directors have, under Section 4, Article III, of the bylaws, required members to give sixty (60) days notice of intention to withdraw the whole or any part of the amount of shares paid in the credit union:

If there is good reason to believe that at the expiration of the sixty (60) day period, there may be requests from members to withdraw shares, which, if paid in full, would deplete cash on hand, the following procedure shall be put into effect and in the order listed.

1. Borrowed money, including accrued interest, shall be paid, or cash set aside for payment, before any payment of shares is made.

2. Each shareholder shall be apportioned an amount of the remaining cash in the same proportion that his shares were to the total outstanding at the start of the sixty (60) day period. If, however, a shareholder has a loan with the credit union and requests withdrawal of his shares, his proportionate share of cash shall first be applied to the loan balance and accrued interest and any remaining cash, after the loan and accrued interest is paid in full, shall be paid to the shareholder.

3. No loan shall be made or money borrowed so long as this regulation is in effect without prior approval of the Board of Bank Control.

After all cash has been distributed in the above manner or set aside for those shareholders not requesting it, or applied to a loan, the directors of the credit union shall at the expiration of each thirty (30) days from the end of the sixty (60) day required notice, again distribute accumulated cash according to 1 and 2 above.

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

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

(a) A certificate in writing signed by a competent person as to the title of the mortgagor to the mortgaged premises, giving full information as to the lien of the mortgage or other instrument held by the credit union. The certificate should be made subsequent to the date the mortgage is recorded.

(b) A certificate in writing signed by either a professional appraiser or two members of the Credit Committee or by two credit union employees designated by the Credit Committee and approved by the Board of Directors as to the market value of the property. No loan shall be made in excess of 85% of the appraised value. If the loan is to be secured by a second mortgage, the outstanding balance of the first mortgage and the loan to be secured by the second mortgage shall not exceed 85% of the appraised value.

(c) If mortgaged premises have insurable improvements thereon, the credit union's files shall contain a fire insurance policy in an amount sufficient to cover the loan balance with mortgagee clause running to the credit union.

The restrictions and limitations of this regulation do not apply:

- (1) To loans or advances of credit already made.
- (2) To loans or advances of credit not exceeding two thousand dollars (\$2,000.00).
- (3) To security taken in good faith by way of a compromise of a doubtful claim or to avert an apprehended loss in connection with a debt previously contracted.

**HISTORY:** Amended by State Register Volume 14, Issue No. 5, eff May 25, 1990.

### **15-42. Authority to Engage in Activities Authorized for Federally Chartered Institutions.**

(Statutory Authority: 1976 Code § 34-27-30)

After making application to the Board of Bank Control and obtaining approval of the Board, State-chartered credit unions may establish branches, PROVIDED, the branch serves only those employees who have a common bond of employment.

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

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

The second paragraph of this regulation became effective September 8, 1976.

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

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

The Board of Directors of a State chartered credit union may appoint an executive committee of not less than three directors to exercise such authority as may be delegated to it subject to such limitations as may be prescribed by the Board. All actions of the executive committee shall be approved and confirmed by the Board at the next meeting.

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

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

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

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

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

## **15-45. Electronic Fund Transfers.**

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

State chartered credit unions, associations of credit unions, and any other parties interested in credit union programs may submit pilot programs relating to electronic funds transfer through remote service units, loan programs and other operational systems to the Board of Bank Control for approval.

A program will be designated a pilot program if it is determined that the implementation of the program will provide the Board with the information necessary for the establishment of permanent programs which will effectively benefit all credit unions and the parties they serve.

Where a pilot program is deemed appropriate and the submitting party is a credit union, such credit union will be designated the credit union to implement the pilot program, provided the Board determines the implementation by such credit union would best serve the Board's observation and evaluation of the actual operation of the pilot program. If the requesting credit union is deemed unqualified for implementation, or if the submitting party is not a credit union, the Board may, with the consent of the submitting party, designate an alternate credit union to test the program.

A termination date will be specified for the credit union designated to implement a pilot program. If, at the termination date, additional time is needed for complete evaluation, the Board may extend the time at the request of the designated credit union. The Board reserves the right to terminate or otherwise modify any ongoing pilot program. At the end of the evaluation period or extensions thereof, the Board will determine the benefits of the program and may authorize other qualified credit unions to adopt the same program, or a modification thereof, in which case approval by the Board will be required.

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

### **I. SCOPE**

This regulation prescribes the procedures that enable one or more credit unions to merge with a single continuing credit union where the merging credit union(s) and the continuing credit union are state credit unions.

### **II. DEFINITIONS**

(a) As used herein:

(1) The continuing credit union is that credit union which will continue in operation after the merger;

(2) The merging credit union is that credit union which will cease to exist as an operating credit union at the time of the merger;

(3) State credit union means any credit union chartered under the laws of South Carolina;

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

### **III. WHEN PERMISSIBLE**

Merger may be effected if:

(1) There has been approval by the National Credit Union Administration when the continuing credit union is federally chartered;

(2) There has been approval by the Board of Financial Institutions when the continuing credit union is state chartered.

#### IV. PREPARATION OF MERGER PLANS

(a) Upon the approval of a proposal for merger by a majority of the members of the Board of Directors of the credit unions, a written plan for the proposed merger shall be prepared by the continuing credit union. The plan shall include:

- (1) Current financial reports of each credit union as of the same date;
- (2) Current delinquent loan schedule annotated to reflect collection problems of each credit union as of the same date;
- (3) Combined financial report, including an analysis of share values and an explanation of any share adjustments;
- (4) Explanation of any provisions for reserves, undivided earnings or dividends;
- (5) Provision with respect to notification and payment of creditors;
- (6) Explanation of any changes relative to insurance of member accounts;
- (7) Provisions for insuring that all assets and liabilities of the continuing credit union will conform with the requirements of the South Carolina Statutes relating to Cooperative Credit Unions;
- (8) Proposed charter amendments.

#### V. SUBMITTAL OF MERGER PROPOSAL TO COMMISSIONER OF BANKING

(a) Upon approval of the merger plan by a majority of the members of the Board of Directors of the credit unions, the following information will be submitted to the Commissioner of Banking by the continuing credit union;

- (1) The merger plan;
- (2) Resolution of the Board of Directors;
- (3) Proposed Merger Agreement;
- (4) Notice of proposed merger to members of the merging and continuing credit unions;
- (5) Copy of the form of ballot to be sent to the members of the merging and continuing credit unions.

#### VI. APPROVAL OF THE MERGER PROPOSAL BY MEMBERS

(a) Members of the merging and continuing credit unions shall:

(1) Have the right to vote on the merger proposal in person at the annual meetings, if within 120 days of the Board of Financial Institutions' approval, or at a special meeting to be called within 120 days of such approval, or by mail ballot postmarked no later than the date and time announced for the annual meeting or the special meeting called for that purpose;

(2) Be given twenty (20) days advance notice of the meeting at which the merger proposal is to be submitted. The notice shall:

(i) Specify the purpose of the meeting and the time and place;

(ii) Include a summary of the merger plan, which shall contain, but not necessarily be limited to current financial reports for each credit union, a combined financial report for the continuing credit union, explanation of any changes relative to insurance of member accounts;

(iii) State reasons for the proposal merger;

(iv) Provide name and location (to include branches) of the continuing credit union;

(v) Inform the members that they have the right to vote on the merger proposal in person at the meeting or by written ballot to be postmarked no later than the date and time announced for the annual meeting or the special meeting called for the purpose; and

(vi) Be accompanied by a Ballot for Merger Proposal.

(b) The merger proposal must be approved by affirmative vote of a majority of the members of the merging and continuing credit unions who vote on the proposal.

#### VII. CERTIFICATION OF VOTE ON MERGER PROPOSAL

The Board of Directors of the merging credit union(s) shall promptly certify the results of the membership vote to the Commissioner of Banking.

#### VIII. APPROVAL OF MERGER PROPOSAL BY BOARD OF FINANCIAL INSTITUTIONS

(a) If the Commissioner finds that the merger proposal complies with this and other parts of these regulations, he will present the merger proposal to the Board of Financial Institutions.

(b) Any proposed charter amendments for a continuing state credit union will be approved contingent upon the completion of the merger.

#### IX. COMPLETION OF MERGER

(a) Upon approval of the merger proposal by the Board of Financial Institutions and by the members of the merging and continuing credit unions as required, action may be taken to complete the merger. The Board of Directors of the continuing credit union shall:

(1) Promptly certify the completion of the merger to the Commissioner of Banking and that at least a majority of the members who voted in both the merging and continuing credit unions voting voted for the merger;

(2) Forward, along with the certification, the following documents:

- (i) Financial reports for each credit union before the completion of the merger; and
- (ii) A financial report for the continuing credit union after the completion of the merger; and
- (iii) The charter of the merging credit union(s).

(b) If the Commissioner of Banking is satisfied that the merger has been accomplished in accordance with the approved plan, he shall so notify the credit unions, in writing and require that a copy of the plan of merger and merger agreement be filed with the Secretary of State and will proceed to cancel the charter of the merging credit union(s).

X. Subsection (a), (1) and (2), and subsection (b) of Section VI and Section VII of this regulation shall apply to a merging state credit union although it proposes to merge into a federally chartered credit union.

**HISTORY:** Amended by State Register Volume 7, Issue No. 7, eff July 22, 1983; Amended by State Register Volume 14, Issue No. 5, eff May 25, 1990.

### **15-48. Procedure for State Credit Unions to Use Share Drafts.**

(Statutory authority: 1976 Code § 34-1-110)

State chartered credit unions are authorized to use negotiable or non-negotiable drafts to withdraw shares from a share draft account using the same procedure as authorized for Federal credit unions pursuant to National Credit Union Administration Regulation Part 701, Section 701.34, and any amendments thereto.

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

This regulation became effective July 13, 1979.

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

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

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

(a) A state-chartered credit union may:

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

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

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

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

- (2) The purchasing of parts and accessories for the leased property.
- (3) The loan of replacement or substitute property when the leased property is being serviced.
- (4) The purchasing of insurance for the lessee, except where the lessee has failed in its contractual obligation to purchase or maintain the required insurance.

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

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

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

(Statutory authority: 1976 Code § 34-1-110.)

The Board of Directors of a state-chartered credit union may declare dividends at different rates on different types of accounts (share, share draft, and share certificate accounts) to be paid at any interval authorized by the Board of Directors from undivided surplus remaining after the deduction of all expenses and amounts to be set apart as a guaranty fund. However, all dividend rates declared and paid shall be the same for all accounts that are equal in amounts and terms and have previously been approved by the Board of Directors.

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

This regulation became effective July 23, 1982.

### **15-51. Terms and Conditions for State-chartered Credit Union to Make ARM Loans.**

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

State-chartered credit unions are permitted to make adjustable rate mortgage loans to its members under the same terms and conditions as permitted federally chartered credit unions by National Credit Union Administration Regulation 12 CFR Part 701, Section 701.21-6B, dated July 22, 1981.

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

### **15-52. Increase in Field of Membership.**

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

State-chartered credit unions are authorized, after approval of the State Board of Financial Institutions, to increase the field of membership as authorized for federally chartered credit unions by Section 109 of the Federal Credit Union Act and as that act has been interpreted by the National Credit Union Administration in its Interpretative Ruling and Policy Statement published in the Federal Register Volume 47, Number 120, Tuesday, June 22, 1982. The interpretative ruling also provides that a federally chartered credit union may purchase loans of a liquidating credit union and may offer full membership rights and services to the borrowers whose loans it has purchased. The interpretative ruling further provides for two kinds of fields of membership for new credit unions. Firstly, a group field of membership where each employer must have its own common bond but all employers must be located within a well defined area. Secondly, a field of membership composed of persons who reside or work in a given area, but the combined field of membership is limited to a well defined neighborhood, community, or rural district.

**HISTORY:** Added by State Register Volume 7, Issue No. 4, eff April 22, 1983.

## **ARTICLE 3 CONSUMER FINANCE ACT REGULATIONS**

Statutory authority: 1976 Code § 34-29-110

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

(a) Name of Manager: The name of the manager or other officer in charge of the licensed place of business must be filed with the Board of Bank Control and notice of any change in management

promptly reported, giving the name of new manager, employment record for previous five-year, with names and addresses of former employers, positions held, and dates covering each position. The immediate superior of such manager shall be responsible for complying with this section.

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

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

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

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

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

- A. Loan number.
- B. Date of loan.
- C. Name of borrower.
- D. Brief description of security.
- E. Amount of gross note—\$150.00 or less.  
Amount of gross note—\$150.01—\$300.00  
Amount of gross note—\$300.01—\$1,000.00  
Amount of gross note—\$1,000.01—\$4,000.00  
Amount of gross note—\$4,000.01—\$7,500.00.

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

- A. Loan register number of loan.
- B. Date of loan.
- C. Name, address, marital status, date of birth and occupation of borrower.
- D. Brief description of security, if any.
- E. All charges itemized as follows:
  - (1) Cash to borrower.
  - (2) Insurance premium—Life.  
Insurance premium—A&H.  
Insurance premium—Property.
  - (3) Initial charge.
  - (4) Finance charge.
  - (5) Others (Explain).
- F. Total amount of obligation, including all charges.
- G. Terms of repaying.
- H. All scheduled repayment dates listed on account record (if weekly). On a monthly contract, at least first month repayment date must appear.

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

- (a) Date of payment.
- (b) Total amount paid.
- (c) Delinquent or deferment charge, if any.
- (d) Remaining balance.

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Loan number.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(w) Blanks in Loan Papers: Before the borrower's signature is affixed, all blank spaces on every document which a borrower is required to sign in obtaining a loan must be completed. Where the

combination note and mortgage is used and the borrower has to sign at the bottom, the mortgage must be marked NONE, when only the note section is used. The borrower must be furnished a legible copy of the note and mortgage.

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

(y) Mortgages' Signatures: All chattel mortgages taken as security on a loan must have the signature of the spouse when the mortgage applies to household furniture. Household furniture can be defined as anything in the house which is used by the whole family and, if taken by legal action, would create a hardship. For example—a bedroom suite, refrigerator, washing machine, living room suite, etc., would be considered household furniture and requires both signatures. Lawn mower, sewing machine, radios, tools, automobile, etc., would not be considered household furniture for the purpose of this section.

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

## 15-61. Consumer Finance Charges.

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

	*PRIOR CASH ADVANCE	*NEW CASH ADVANCE	REFINANCING PERIOD	MAXIMUM INITIAL CHARGE ALLOWED
*1.	\$1,000 or less	\$1,000 or less	Within 3 months	6% of the excess of the new cash advance over the prior cash advance. Provided, however, the aggregate of all initial charges received within the first 3 months of the original loan, regardless of the number of renewals, shall not exceed 6% of the highest cash advance within such 3 months period or \$18.00, whichever is less.
2.	\$1,000 or less	\$1,000 or less	After 3 months	6% of New Cash Advance or \$18.00 whichever is less.
*3.	\$1,000 or less	In excess of \$1,000	Within 3 months	5% of excess of the New Cash Advance over prior cash advance or \$200.00, whichever is less.
4.	\$1,000, or less	In excess of \$1,000.00	After 3 months	5% of New Cash Advance or \$200.00 whichever is less.
*5.	In excess of \$1,000	In excess of \$1,000	Within 12 months	5% of excess of the New Cash Advance over the prior cash advance. Provided, however, the aggregate of all initial charges received within the first 12 months of the original loan, regardless of the number of renewals, shall not exceed 5% of the highest cash advance within such 12 months period or \$200.00 whichever is less.
*6.	In excess of \$1,000	In excess of \$1,000	After 12 months from inception date of original loan.	2% of the New Cash Advance. (See Footnote 1)
7.	In excess of \$1,000	\$1,000 or less	Within 12 months	None.
8.	In excess of \$1,000	\$1,000 or less	After 12 months	6% of New Cash Advance or \$18.00, whichever is less.

### B. Definitions:

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

2. "Prior Cash Advance" shall mean the next preceding cash advance.
3. "Renewal Loan" shall mean carrying forward an old obligation by virtue of a new paper, whether or not a new cash advance is made.
4. The applicable rate for determining the initial charge for a cash advance is that rate specified for the class of loans in which the new cash advance falls.
5. "Refinancing period" shall mean that period stated in the provisions for the class of loan in which the prior cash advance fell.

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

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

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

7/1/00 through 6/30/02

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

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

**ARTICLE 4**

**MORTGAGE LENDING ACT REGULATIONS**

**15-64. Mortgage Lending.**

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

- (1) Act - means the South Carolina Mortgage Lending Act, S.C. Code Ann. Section 37-22-110 et seq.
- (2) Day - means all calendar days including Saturdays, Sundays and legal public holidays.
- (3) Employee for purposes of compliance with the federal income tax laws - means a natural person whose manner and means of performance of work are subject to the right of control of, or are controlled by, a person, and whose compensation for federal income tax purposes is reported, or required to be reported, on a W-2 form issued by the controlling person. (See IRS Publication 1779 and Form SS-8)
- (4) Notice - means written notification received by the Commissioner within seven (7) days of any change except as defined in Section 37-22-180(A)
- (5) Prior Written Consent - means written consent given by the Commissioner authorizing a change of control prior to that change of control taking place. To request authorization from the Commissioner, all information regarding acquisition via stock purchase or other device must be sent to the Commissioner at least 30 days prior to the change of control.

B. Use of NMLS&R unique identifier

(1) The Nationwide Mortgage Licensing System & Registry (NMLS&R) unique identifier for the licensed Mortgage Lender/Servicer, the licensed Branch Office and the licensed Mortgage Loan Originator must be displayed on all mortgage loan applications. The NMLS&R unique identifier of the Mortgage Lender/Servicer and the unique identifier of the Mortgage Loan Originator must also

be placed on the Promissory Note or Loan Contract and the Security Agreement as well as any other documents required by 12 CFR 1026.36(g). Only the unique identifier of the licensed Mortgage Lender/Servicer is required to be displayed on all other mortgage loan forms.

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

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

D. Reports

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

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

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

(2) The Annual Report required by Section 37-22-220 shall include, in addition to other statutory requirements, an Expanded Mortgage Call Report (See Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 USC 5101 et seq.; SAFE Mortgage Licensing Act, 12 CFR parts 1007 & 1008 et seq. consisting of:

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

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

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

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

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

**HISTORY: Added by State Register Volume 36, Issue No. 6, eff June 22, 2012; State Register Volume 39, Issue No. 6, Doc. No. 4548, eff June 26, 2015.**