



## GEORGIA DEPARTMENT OF BANKING AND FINANCE

2990 Brandywine Road, Suite 200, Atlanta, Georgia 30341

### INSTRUCTIONS FOR MORTGAGE LOAN ORIGINATOR APPLICANT AFFIDAVIT

Pursuant to the Official Code of Georgia Annotated § 50-36-1 *et seq.*, the Georgia Department of Banking and Finance ("Department") is required to verify the lawful presence of every entity and individual. Legal permanent residents, qualified aliens and non-immigrants are required to reverify their lawful presence annually at renewal.

**Mortgage Loan Originator (MLO)** applicants, seeking to obtain a license in his or her own name will provide affidavit testimony regarding his or her legal presence in the United States using the attached Mortgage Loan Originator Applicant Affidavit.

Please note that if the individual applicant, or the designated individual for a company, is not a United States citizen, this Department may be required by O.C.G.A. §50-36-1 *et seq.* to verify their immigration status through the Federal Systematic Alien Verification of Entitlement (SAVE) program. Additional documentation may be requested.

#### Checklist for Completion

- ✓ Review all instructions; the permissible list of Secure and Verifiable Documents; your privacy rights; and identify a notary to notarize your signature.
- ✓ Print the MLO applicant's NMLS (Nationwide Mortgage Licensing System) number on the top-right of the form.
- ✓ Check only one of the boxes to indicate the MLO applicant's legal status (U.S. citizen, legal permanent resident, or qualified alien or non-immigrant). A **qualified alien or non-immigrant** must also include his or her federally issued alien number along with a Foreign Passport and I-94, or an Employment Authorization Document that contains a photograph.
- ✓ **Select one secure and verifiable document that will be submitted to verify the affiant's legal status from the list of Secure and Verifiable Documents.** A color copy of this document must be included with the form. If the secure and verifiable document submitted does not contain a photo (e.g., birth certificate), you must provide some form of picture identification.
- ✓ Read the document in its entirety.
- ✓ Print the city and state in which the affidavit was executed.
- ✓ Sign the document in the presence of a notary who will affix his or her seal to the document.
- ✓ Upload to your NMLS record, in the Legal Name/Status Documentation [Document Upload](#) section, 1) the completed, signed and notarized Mortgage Loan Originator Applicant Affidavit along with 2) a legible copy (front and back) of your chosen secure and verifiable document.

**Applications will not be processed without a complete and notarized affidavit.**

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### SECURE and VERIFIABLE DOCUMENT LIST FOR VERIFICATION OF LAWFUL PRESENCE

Below is a list of acceptable Secure and Verifiable Documents pursuant to O.C.G.A. § 50-36-2.

Select **only one** of the following and submit a **legible** copy with affidavit. **Color copies required.** Qualified Aliens or Non-Immigrants must provide documents from Box 1 or Box 7.

1. A **United States passport**, United States passport card or a passport issued by a foreign government with a valid U.S. Homeland Security Form I-94, I-94A or I-94W or other federal document specifying proof of lawful presence
2. A United States **military identification** card
3. A **driver's license**\* issued by one of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Marianas Islands, the U.S. Virgin Island, American Samoa, the Swain Islands or a driver's license issued by a Canadian government authority
4. An **identification card**\* issued by one of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Marianas Islands, the U.S. Virgin Island, American Samoa, or the Swain Islands
5. A **tribal identification card**\* of a federally recognized Native American tribe. ([www.bia.gov](http://www.bia.gov))
6. A United States **Permanent Resident Card** or **Alien Registration** Receipt Card
7. An **Employment Authorization Document** that contains a photograph of the bearer
8. A **Merchant Mariner** Document or Merchant Mariner Credential issued by the U.S. Coast Guard
9. A Free and Secure Trade (**FAST**) card, a **NEXUS** card or A Secure Electronic Network for Travelers Rapid Inspection (**SENTRI**) card
10. A **Certificate of Citizenship** (Form N-560 or Form N-561) or **Certificate of Naturalization** (Form N-550 or Form N-570) issued by the U.S. Department of Citizenship and Immigration Services (USCIS)
11. Certification of **Report of Birth** (Form DS-1350), **Certification of Birth Abroad** (Form FS-545) or **Consular Report of Birth Abroad** (Form FS-240) issued by the U.S. Department of State
12. An original or **certified copy of a birth certificate** issued by a State, county, municipal authority, or territory of the United States bearing an official seal

*\*provided that it contains a photograph of the bearer or lists sufficient identifying information regarding the bearer, such as name, date of birth, gender, height, eye color, and address to enable the identification of the bearer.*

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**\*\* Please keep the following pages for your records \*\***

## **NON-CRIMINAL JUSTICE APPLICANT'S PRIVACY RIGHTS**

As an applicant that is the subject of a Georgia only or a Georgia and Federal Bureau of Investigation (FBI) national fingerprint/biometric-based criminal history record check for a non-criminal justice purpose (such as an application for a job or license, immigration or naturalization, security clearance, or adoption), you have certain rights which are discussed below.

- You must be provided written notification that your fingerprints/biometrics will be used to check the criminal history records maintained by the Georgia Crime Information Center (GCIC) and the FBI, when a federal record check is so authorized.
- If your fingerprints/biometrics are used to conduct a FBI national criminal history check, you are provided a copy of the Privacy Act Statement that would normally appear on the FBI fingerprint card.
- If you have a criminal history record, the agency making a determination of your suitability for the job, license, or other benefit must provide you the opportunity to complete or challenge the accuracy of the information in the record.
- The agency must advise you of the procedures for changing, correcting, or updating your criminal history record as set forth in Title 28, Code of Federal Regulations (CFR), Section 16.34.
- If you have a Georgia or FBI criminal history record, you should be afforded a reasonable amount of time to correct or complete the record (or decline to do so) before the agency denies you the job, license or other benefit based on information in the criminal history record.
- In the event an adverse employment or licensing decision is made, you must be informed of all information pertinent to that decision to include the contents of the record and the effect the record had upon the decision. Failure to provide all such information to the person subject to the adverse decision shall be a misdemeanor [O.C.G.A. § 35-3-34(b) and §35-3-35(b)].

You have the right to expect the agency receiving the results of the criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of state and/or federal statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council.

If the employment/licensing agency policy permits, the agency may provide you with a copy of your Georgia or FBI criminal history record for review and possible challenge. If agency policy does not permit it to provide you a copy of the record, information regarding how to obtain a copy of your Georgia, FBI or other state criminal history may be obtained at the [GBI website \(http://gbi.georgia.gov/obtaining-criminal-history-record-information\)](http://gbi.georgia.gov/obtaining-criminal-history-record-information).

If you decide to challenge the accuracy or completeness of your Georgia or FBI criminal history record, you should send your challenge to the agency that contributed the questioned information. Alternatively, you may send your challenge directly to GCIC provided the disputed arrest occurred in Georgia. Instructions to dispute the accuracy of your criminal history can be obtained at the [GBI website \(http://gbi.georgia.gov/obtaining-criminal-history-record-information\)](http://gbi.georgia.gov/obtaining-criminal-history-record-information).

## **PRIVACY ACT STATEMENT**

**Authority:** The FBI's acquisition, preservation, and exchange of fingerprints and associated information is generally authorized under 28 U.S.C. 534. Depending on the nature of your application, supplemental authorities include Federal statutes, State statutes pursuant to Pub. L. 92-544, Presidential Executive Orders, and federal regulations. Providing your fingerprints and associated information is voluntary; however, failure to do so may affect completion or approval of your application.

**Principal Purpose:** Certain determinations, such as employment, licensing, and security clearances, may be predicated on fingerprint-based background checks. Your fingerprints and associated information/biometrics may be provided to the employing, investigating, or otherwise responsible agency, and/or the FBI for the purpose of comparing your fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems (including civil, criminal, and latent fingerprint repositories) or other available records of the employing, investigating, or otherwise responsible agency. The FBI may retain your fingerprints and associated information/biometrics in NGI after the completion of this application and, while retained, your fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI.

**Routine Uses:** During the processing of this application and for as long thereafter as your fingerprints and associated information/biometrics are retained in NGI, your information may be disclosed pursuant to your consent, and may be disclosed without your consent as permitted by the Privacy Act of 1974 and all applicable Routine Uses as may be published at any time in the Federal Register, including the Routine Uses for the NGI system and the FBI's Blanket Routine Uses. Routine uses include, but are not limited

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**NON-CRIMINAL JUSTICE APPLICANT'S PRIVACY RIGHTS (CONT'D)**

to, disclosures to: employing, governmental or authorized non-governmental agencies responsible for employment, contracting, licensing, security clearances, and other suitability determinations; local, state, tribal, or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.

**28 CFR Part 16, Subpart C - Production of FBI Identification Records in Response to Written Requests by Subjects Thereof**

**§ 16.30 Purpose and scope.**

This subpart contains the regulations of the Federal Bureau of Investigation (FBI) concerning procedures to be followed when the subject of an identification record requests production of that record to review it or to obtain a change, correction, or updating of that record.

**§ 16.31 Definition of identification record.**

An FBI identification record, often referred to as a "rap sheet," is a listing of certain information taken from fingerprint submissions retained by the FBI in connection with arrests and, in some instances, includes information taken from fingerprints submitted in connection with federal employment, naturalization, or military service. The identification record includes the name of the agency or institution that submitted the fingerprints to the FBI. If the fingerprints concern a criminal offense, the identification record includes the date of arrest or the date the individual was received by the agency submitting the fingerprints, the arrest charge, and the disposition of the arrest if known to the FBI. All arrest data included in an identification record are obtained from fingerprint submissions, disposition reports, and other reports submitted by agencies having criminal justice responsibilities. Therefore, the FBI Criminal Justice Information Services Division is not the source of the arrest data reflected on an identification record.

**§ 16.32 Procedure to obtain an identification record.**

The subject of an identification record may obtain a copy thereof by submitting a written request via the U.S. mails directly to the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306. Such request must be accompanied by satisfactory proof of identity, which shall consist of name, date and place of birth and a set of rolled-in fingerprint impressions placed upon fingerprint cards or forms commonly utilized for applicant or law enforcement purposes by law enforcement agencies.

**§ 16.33 Fee for production of identification record.**

Each written request for production of an identification record must be accompanied by a fee of \$18 in the form of a certified check or money order, payable to the Treasury of the United States. This fee is established pursuant to the provisions of 31 U.S.C. 9701 and is based upon the clerical time beyond the first quarter hour to be spent in searching for, identifying, and reproducing each identification record requested as specified in § 16.10. Any request for waiver of the fee shall accompany the original request for the identification record and shall include a claim and proof of indigency. Subject to applicable laws, regulations, and directions of the Attorney General of the United States, the Director of the FBI may from time to time determine and establish a revised fee amount to be assessed under this authority. Notice relating to revised fee amounts shall be published in the Federal Register.

**§ 16.34 Procedure to obtain change, correction or updating of identification records.**

If, after reviewing his/her identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he/she should make application directly to the agency which contributed the questioned information. The subject of a record may also direct his/her challenge as to the accuracy or completeness of any entry on his/her record to the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306. The FBI will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed the original information, the FBI CJIS Division will make any changes necessary in accordance with the information supplied by that agency.

**GEORGIA DEPARTMENT OF BANKING AND FINANCE  
MORTGAGE LOAN ORIGINATOR APPLICANT AFFIDAVIT**

By executing this affidavit under oath, as an Applicant or Licensee, as referenced in O.C.G.A. § 50-36-1 *et seq.*, from the Georgia Department of Banking and Finance ("Department"), the undersigned verifies **one** of the following with respect to my application for a public benefit: **(Check only one of the following)**

- 1) ☐ I am a **United States citizen**.
- 2) ☐ I am a **legal permanent resident** of the United States.
- 3) ☐ I am a **qualified alien** or **non-immigrant** under the Federal Immigration and Nationality Act with a federally issued alien number. My **alien number**, issued by the Department of Homeland Security or other federal immigration agency, is: \_\_\_\_\_. **I understand I am also required to provide a Foreign Passport and an I-94, or an Employment Authorization Document with a photograph.**

The undersigned also hereby verifies that he or she is 18 years of age or older and has provided at least one secure and verifiable document, as required by O.C.G.A. § 50-36-2, with this affidavit.

**Check only one below.** The original should be presented to the notary and a copy attached to this form to be submitted to the Department via NMLS. If the secure and verifiable document submitted does not contain a photo (e.g., birth certificate), you must provide some form of picture identification.

<input type="checkbox"/> Passport	<input type="checkbox"/> Certificate of Citizenship/Naturalization	<input type="checkbox"/> Employment Authorization Document	<input type="checkbox"/> State ID
<input type="checkbox"/> Certified Birth Certificate	<input type="checkbox"/> Report of Birth or Certification of Birth Abroad	<input type="checkbox"/> Merchant Mariner Document	<input type="checkbox"/> Tribal ID
<input type="checkbox"/> Driver's License	<input type="checkbox"/> Permanent Resident Card or Alien Registration	<input type="checkbox"/> FAST, NEXUS or SENTRI Card	<input type="checkbox"/> Military ID

The undersigned also hereby verifies that he or she acknowledges the following:

1. The undersigned will not engage in activities requiring a mortgage loan originator license unless and until such time as his or her mortgage loan originator license has been approved by this Department or unless qualified to operate under the temporary authority provisions of 12 U.S.C. § 5117.
2. The undersigned will not engage in any mortgage business with brokers, processors, lenders, or originators that are not licensed or registered or exempt from licensure.
3. Any individual receiving compensation for mortgage loan originator activity on a 1099 basis will be considered an independent contractor and is required to first obtain his or her own broker or lender license. No mortgage loan originator may be paid a referral fee in connection with a mortgage loan.
4. The Department shall be notified within ten (10) days of receipt of any notice of a judgment being filed against the undersigned, or administrative, civil, or criminal action being initiated by any governmental entity against the Applicant. O.C.G.A. § 7-1-1017. Information provided by the undersigned through the Nationwide Multistate Licensing System ("NMLS") must at all times be current, accurate and complete, including contact information, employment history and sponsorship. Amendments must be made within ten (10) business days pursuant to Department Rule 80-11-5-.07. Upon approval, the undersigned must continue to meet the minimum standards for licensure at all times.
5. No individual that has been convicted of or entered a plea of guilty or nolo contendere to a felony is eligible to hold a mortgage loan originator license unless the felony has been remedied with a pardon pursuant to O.C.G.A. § 7-1-1004(h).
6. The undersigned acknowledges that to purposely withhold, delete, destroy, or alter information requested in any application or to make false statements or misrepresentations on any application filed with the Department or the NMLS is a violation of O.C.G.A. § 7-1-1013(11) and may result in the assessment of fines, the suspension or revocation of license, the denial of the application, or other administrative action or a combination of these actions.

**I further hereby authorize the Department to obtain my criminal history data in connection with my Georgia mortgage loan originator application.** I understand this will be an FBI criminal background check. Also, pursuant to the provisions of O.C.G.A. § 7-1-1004, the Department is authorized to secure information from credit reporting agencies, former employers, the Federal Systematic Alien Verification of Entitlement (SAVE) program or others regarding character, ethical reputation and financial responsibility. Such information and any conviction data received by the Department shall be used by the Department for the exclusive purpose of carrying out the responsibilities of this article, will be confidential, and shall not be disclosed to another person or agency except to any person or agency which otherwise has a legal right to inspect the file. The Department will notify me if further information is required. Should the data show that a violation of O.C.G.A. § 7-1-1004 exists, I understand that the Department may take appropriate steps regarding the status of the license, as well as action against any person who does not qualify for employment under the law. Further information regarding this matter is contained in O.C.G.A. § 7-1-1004. The procedures for changing, correcting, or updating a criminal history record is set forth in Title 28, Code of Federal Regulations (CFR), Section 16.30 through 16.34. **By signing this form, I also acknowledge that I have read the Privacy Rights and Privacy Act Statement for Non-Criminal Justice purposes that were included with the instructions to this form.**

A copy of this authorization shall be accepted with the same force and validity as the original.

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20, and face criminal penalties as allowed by such criminal statute.

Executed in \_\_\_\_\_ (city), \_\_\_\_\_ (state)

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Printed Name of Applicant

\_\_\_\_\_  
NMLS Unique Identifier

**SUBSCRIBED AND SWORN  
BEFORE ME ON THE**

\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
**NOTARY PUBLIC**  
**My Commission Expires:**  
(Affix seal or stamp hereto)

Upload to your NMLS record, in the Legal Name/Status Documentation [Document Upload](#) section, pages 1 and 2 of the completed, signed and notarized Mortgage Loan Originator Applicant Affidavit **AND** a legible color copy (front and back) of your chosen secure and verifiable document.