

BY-LAWS
STATE BOARD OF FINANCIAL INSTITUTIONS
Adopted by the Board December 4, 2019

Article I: Name and Purpose.

Section 1: Name. The name of the board is "State Board of Financial Institutions."

Section 2: Authority. The State Board of Financial Institutions is organized pursuant to S.C. Code of Laws Chapter 1 of Title 34 and consists of an eleven-member regulatory and supervisory board ("Board") and an agency of the State of South Carolina ("Agency"), collectively referred to as "BOFI." BOFI's purpose is to supervise and license various financial institutions as provided in Titles 34 and 37. Those financial institutions include state-chartered banks, credit unions, building and loan associations, savings and loan associations, savings banks, trust companies, supervised lenders, restricted lenders, deferred presentment service providers, check cashing service providers, mortgage lenders/servicers, including mortgage loan originators.

Article II: Membership

Section 1: Membership. The Board is composed of eleven members, one of whom is the State Treasurer who is an ex officio member. The remaining ten members must be appointed by the Governor with the advice and consent of the Senate. Four must be engaged in banking and recommended by the South Carolina Bankers Association, one must be recommended by the association of supervised lenders,¹ one must be engaged in the mortgage lending business and recommended by the Mortgage Bankers Association of the Carolinas, one must be engaged in the licensed consumer finance business as a restricted lender or a supervised lender and recommended by the Independent Consumer Finance Association, two must be engaged in the cooperative credit union business and recommended by the Carolinas Credit Union League,² and one must be unaffiliated with a financial organization and serve as a representative of the consumers of the State. Each member shall represent the best interests of the public, and each appointed member shall not serve more than two consecutive four-year terms. The association which is to recommend an individual to fill a vacancy on the Board shall submit three names, from three different institutions, from which the Governor shall select one. S.C. Code Ann. §34-1-20. Also note that Attorney General Opinions have consistently concluded that "serving a portion of any unexpired term is distinguishable from serving full term in office and therefore, does not count toward a term limit imposed by statute." 2007 WL 3244889 (S.C.A.G.).

Section 2: Term. Members shall be appointed for a term of four years and shall serve within the law until their successors are appointed and have qualified. S.C. Code Ann. §34-1-30.

¹ Section 34-1-20 says that one Board Member must be recommended to the Governor by the association of supervised lenders; however, that association does not exist. Therefore, in recent years, this Board Member has been recommended by the South Carolina Financial Services Association.

² Section 34-1-20 gives this duty to the State Cooperative Credit Union League; however, that entity no longer exists after a merger. The merged entity's name is the Carolinas Credit Union League.

Section 3: Ethics. Members of the Board are responsible for complying with the South Carolina Ethics Act, specifically §§8-13-700 to -790 (Rules of Conduct), §§8-13-1110 to -1180 (Disclosure of Economic Interests) and lobbying restrictions under §2-17-10 to -150.

Section 4: Resignations. Members wishing to resign should notify the Chairman in writing of his or her resignation. The Chairman should then notify the other Board members, the Governor, and the entity responsible for recommending an individual to that position.

Article III: Officers, Emergency Authority, and Committees

Section 1: Chairman. The State Treasurer serves as chairman of the Board. S.C. Code Ann. §34-1-20.

Section 2: Chairman Pro-Tempore: In the event the Chairman is absent or unavailable, the member who at the time of the Chairman's unavailability has the most uninterrupted service on the Board shall chair the meeting until the Chairman is available. If there is more than one member with the most uninterrupted service, the same beginning term date, the Board shall elect from these members a Chairman Pro-Tempore who shall serve until the end of his or her service as a member of the Board. At the appropriate meeting, those members present and those participating by phone shall elect the Chairman Pro-Tempore. In the event of a tie, the Board shall continue voting until the tie is broken. While serving in the absence of the Chairman, the Chairman Pro-Tempore shall have the same powers and responsibilities as the Chairman.

Section 3: Emergency Authority.

(A) In the event of an emergency or similar situation where immediate action is needed to protect the best interests of the State, the Chairman shall attempt to coordinate an emergency meeting of the Board, if possible. The meeting may be conducted by telephone.

(B) If, however, it is not feasible for the Board to meet in a timely manner, the Chairman and the appropriate Commissioner shall solicit advice from as many Board members as practical regarding the issue. After due consideration, the Chairman may then act or authorize the appropriate Commissioner to act as may be needed which shall be ratified by the full Board at the next meeting. *See* S.C. Code Ann. § 34-1-60 (granting the Board broad supervisory powers over regulated persons).

Section 4: Committees of the Board: Standing Committees of the Board shall consist of the Budget and Operations Committee, the Policy and Planning Committee, and the Legislative and Regulatory Committee. The Board may create Special Committees, as needed, and shall define the task of each Special Committee.

Article IV: Commissioners and Office

Section 1: Divisions. The Agency shall be comprised of two divisions, a Banking Division and a Consumer Finance Division. The Board shall appoint a Commissioner for each division who serves at the pleasure of the Board. Each Commissioner, subject to the Board's approval, may hire necessary staff to carry out the respective division's responsibilities. S.C. Code Ann. §34-1-80 and §34-29-200.

Section 2: Commissioners. Each Commissioner is authorized to carry-out or implement orders or directives of the Board. The Board may delegate certain activities to a Commissioner.

Section 3: Administrator and Assistant. The Chairman may appoint an Administrator and an Assistant. The Administrator shall, among other tasks, be responsible for maintaining the official records and minutes of the Board and its committees as well as coordinating administrative issues for the Board members. The Assistant shall assist the Chairman as directed.

Article V: Meetings and Procedures

Section 1: Meetings. Generally, Board meetings will be held on the first Wednesday of the month, though exceptions are permitted. Before the beginning of each calendar year, the Board and each Standing Committee shall publish a tentative schedule of regular meetings for the new calendar year which may be amended during the year as necessary.

Section 2: Agendas. The Chairman, with advice from the two commissioners, shall prepare the agenda for each Board meeting and distribute it to the members in advance of the meeting. The Committee Chairperson, with advice from the two commissioners, shall prepare the agenda and distribute it to the members of the committee in advance of the meeting. Meeting notices and minutes shall comply with the Freedom of Information Act. S.C. Code Ann. §30-4-10 to -165.

Section 3: Procedure: Unless statutes, regulations, these By-Laws, or any governance policies adopted by the Board provide otherwise, the Board and each Committee shall follow Robert's Rules of Order for conducting business.

Section 4: Quorum. A quorum is a simple majority of the constituent membership of a public body. S.C. Code Ann. § 30-4-20(e). To discuss or act upon a matter over which the Board has jurisdiction, a quorum of the Board must be present. Similarly, a quorum of a Committee must be present to have a meeting of the Committee. S.C. Code Ann. § 30-4-20(d). A member is present if participating in a meeting by phone. A recusal by a member on a certain matter to be addressed by the Board or applicable Committee made under the Rules of Conduct of Title 8 of the South Carolina Code of Laws does not affect the existence of a quorum.

Section 5: Voting. Unless otherwise provided for in these By-Laws or in any governance policies adopted by this Board and if a quorum of the Board or Committee exists, decisions are made by a majority of those present and voting. Voting by proxy is prohibited.

Section 6: Freedom of Information. The meetings, notices, and minutes of the Board and each Committee shall comply with provisions of the Freedom of Information Act and other applicable state and federal law. S.C. Code Ann. §30-4-10 to -165. Further, certain records held by BOFI are excluded from the definition of "public records" in the Freedom of Information Act. S.C. Code Ann. §30-4-20(c) (stating that "[n]othing herein authorizes or requires the disclosure of records of the Board of Financial Institutions pertaining to applications and surveys for charters and branches of banks and savings and loan associations or surveys and examinations of the institutions required to be made by law.").

Section 7: Special Meetings. Special meetings may be called by the Chairman or the Committee Chairperson as necessary.

Article VI: Miscellaneous

Section 1: Amendments to By-Laws. Any member may propose changes to these By-Laws. Proposed amendments must be provided to all members at least one week in advance of a meeting. Any amendment to the By-Laws must be approved by a majority of the members of the Board. Unless otherwise prohibited by law, the Board may temporarily suspend a By-Law under emergency or extraordinary situations until the next scheduled Board meeting.

Section 2: Rules of Governance. The Board may adopt and modify, as needed, governance policies.

These by-laws were approved at a meeting of the Board on December 4, 2019.