

SENATE, No. 3455

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED NOVEMBER 9, 2017

Sponsored by:
Senator NELLIE POU
District 35 (Bergen and Passaic)

SYNOPSIS

Revises “New Jersey Residential Mortgage Lending Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain licensed mortgage lending activities and
2 amending various parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 3 of P.L.2009, c.53 (C.17:11C-53) is amended to
8 read as follows:

9 3. As used in this act:

10 “Approved conditional status” means the status of the license of
11 an individual who has satisfied all conditions for licensure as a
12 mortgage loan originator or qualified individual licensee except a
13 satisfactory demonstration of his or her financial responsibility but
14 who is making a good faith effort to achieve the level of financial
15 responsibility required for such licensure.

16 “Approved inactive status” means the status of the license of an
17 individual applicant who has satisfied all conditions for licensure
18 except sponsorship by a licensed business entity or the status of a
19 licensed individual who is no longer so sponsored.

20 “Bona fide not for profit entity” means an organization that:

21 a. maintains tax exempt status under section 501(c)(3) of the
22 Internal Revenue Code of 1986, 26 U.S.C. s.501(c)(3);

23 b. promotes low to moderate income housing or provides
24 homeownership education, or similar services;

25 c. conducts its activities in a manner that serves public or
26 charitable purposes;

27 d. receives funding and revenue and charges fees in a manner
28 that does not incentivize the organization or its employees to act
29 other than in the best interests of its clients;

30 e. compensates employees in a manner that does not
31 incentivize employees to act other than in the best interests of its
32 clients;

33 f. provides to or identifies for the borrower residential
34 mortgage loans with terms that are favorable to the borrower and
35 comparable to mortgage loans and housing assistance provided
36 under government housing assistance programs; and

37 g. meets such other standards as may be prescribed by the
38 commissioner through rulemaking.

39 "Borrower" means any individual applying for a loan from a
40 licensee licensed under this act, whether or not the loan is granted,
41 and any individual who has actually obtained a loan.

42 “Branch manager” means an employee of a licensed business
43 entity with management responsibilities over a branch and who is
44 identified as such with the Nationwide Mortgage Licensing System
45 and Registry.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

S3455 POU

1 "Business licensee" means a corporation, association, joint
2 venture, partnership, limited liability company, limited liability
3 partnership, sole proprietorship, or any other legal entity, however
4 organized, permitted under the laws of this State, that is licensed as
5 a residential mortgage lender or residential mortgage broker, or that
6 should be so licensed.

7 "Clerical or support duties" means and includes: (1) the receipt,
8 collection, distribution, and analysis of information common for the
9 processing or underwriting of a residential mortgage loan; or (2)
10 communicating with a borrower to obtain the information necessary
11 for the processing or underwriting of a residential mortgage loan, to
12 the extent that the communication does not include offering or
13 negotiating loan rates or terms, or counseling borrowers about loan
14 rates or terms. However, the term "clerical or support duties" does
15 not include making representations to the public, through
16 advertising or other means of communicating or providing
17 information, such as through the use of business cards, stationery,
18 brochures, signs, rate lists, or other promotional items, indicating
19 that **[a]** the person assigned to perform clerical or support duties
20 can or will perform any of the activities of a licensee under this act
21 or of a person exempt from licensure pursuant to section 5 of this
22 act.

23 "Closed-end loan" with respect to a secondary mortgage loan
24 means a mortgage loan pursuant to which the business licensee
25 advances a specified amount of money and the borrower agrees to
26 repay the principal and interest in substantially equal installments
27 over a stated period of time, except that: (1) the amount of the final
28 installment payment may be substantially greater than the previous
29 installments if the term of the loan is at least 36 months, or under 36
30 months if the remaining term of the first residential mortgage loan
31 is under 36 months; or (2) the amount of the installment payments
32 may vary as a result of the change in the interest rate as permitted
33 by this act.

34 "Commissioner" means the Commissioner of Banking and
35 Insurance.

36 "Controlling interest" means ownership, control or interest of
37 25% or more of the business licensee or applicant.

38 "Correspondent mortgage lender" means a residential mortgage
39 lender who: (1) in the regular course of business, does not hold any
40 mortgage loans in its portfolio, or service mortgage loans, for more
41 than 90 days; and (2) has shown to the department's satisfaction an
42 ability to fund mortgage loans through warehouse agreements, table
43 funding agreements or otherwise.

44 "Department" means the Department of Banking and Insurance.

45 "Depository institution" means "depository institution" as
46 defined in section 3 of the "Federal Deposit Insurance Act,"
47 Pub.L.81-797 (12 U.S.C. s.1813), and also means any credit union.

1 “Exempt company” means a person other than a bona fide not for
2 profit entity that is not subject to licensure as a residential mortgage
3 lender or a residential mortgage broker under P.L.2009, c.53
4 (C.17:11C-51 et seq.) that is registered pursuant to subsection d. of
5 section 4 of P.L.2009, c.53 (C.17:11C-54), and that employs, or will
6 employ one or more licensed mortgage loan originators.

7 “Expungement” means, with respect to a record of criminal
8 conviction entered in this State, an order issued pursuant to N.J.S.
9 2C:52-1 et seq. With respect to criminal convictions entered in
10 another state, that other state’s definition of expungement or the
11 functional equivalent of expungement will apply.

12 "Federal banking agency" means the Board of Governors of the
13 Federal Reserve System, the Comptroller of the Currency, **【**the
14 Director of the Office of Thrift Supervision,**】** the National Credit
15 Union Administration, or the Federal Deposit Insurance
16 Corporation, or any of their successor agencies.

17 "Immediate family member" means a spouse, domestic partner as
18 defined in section 3 of P.L.2003, c.246 (C.26:8A-3), partner in a
19 civil union couple as defined in section 2 of P.L.2006, c.103
20 (C.37:1-29), parent, stepparent, grandparent, sibling, stepsibling,
21 child, stepchild, and grandchild, as related by blood or by law.

22 "Individual" means a natural person.

23 "Individual licensee" means a natural person licensed as a
24 qualified individual licensee for a residential mortgage lender or
25 residential mortgage broker, or a mortgage loan originator.

26 “Insurer” means an entity authorized to transact the business of
27 insurance in this State pursuant to subtitle 3 of Title 17 of the
28 Revised Statutes or subtitle 3 of Title 17B of the New Jersey
29 Statutes.

30 "Licensee" means a legal entity or natural person who is licensed
31 under this act, or who should be so licensed.

32 "Loan processor" or "loan underwriter" means an individual who
33 performs clerical or support duties as an employee, at the direction
34 of and subject to the supervision and instruction of a licensee under
35 this act **【**or a person exempt from licensure**】**.

36 "Mortgage loan originator" means any individual, not exempt
37 under section 5 of this act and licensed pursuant to the provisions of
38 this act, and any individual who should be licensed pursuant to the
39 provisions of this act, who for compensation or gain, or in the
40 expectation of compensation or gain, either directly or indirectly
41 takes a residential mortgage loan application, or offers or negotiates
42 terms of a residential mortgage loan. However, the term "mortgage
43 loan originator" does not mean an individual:

44 **【(1)】** a. who is a qualified individual licensee for a residential
45 mortgage lender or residential mortgage broker;

46 **【(2)】** b. engaged solely as a loan processor or underwriter,
47 except as provided in section 4 of this act; **【or】**

1 **[(3)]** c. engaged solely in extensions of credit relating to
2 timeshare plans, as defined in section 101(53D) of title 11, United
3 States Code (11 U.S.C. s.101(53D)); or

4 d. (1) employed by a federal, state, or local government agency
5 or a housing finance agency and who acts as a mortgage loan
6 originator only pursuant to his or her official duties as an employee
7 of the federal, state, or local government agency, or of a housing
8 finance agency. The agency itself is not considered a mortgage
9 loan originator under the provisions of P.L.2009, c.53 (C.17:11C-51
10 et seq.).

11 (2) For the purposes of subsection d. of this section:

12 (a) "Employee" means an individual whose manner and means
13 of performance of work are subject to the right of control of, or are
14 controlled by, a person and whose compensation for federal income
15 tax purposes is reported or required to be reported on a W-2 form
16 issued by the controlling person;

17 (b) "Housing finance agency" means any organization that is:

18 (i) Chartered by a state to help meet the affordable housing
19 needs of the residents of the state;

20 (ii) Supervised, directly or indirectly, by the state government;

21 (iii) Subject to audit and review by the state in which it operates;
22 and

23 (iv) Whose activities make it eligible to be a member of the
24 National Council of State Housing Agencies.

25 "National Mortgage Licensing System and Registry" means
26 the mortgage licensing system developed and maintained by the
27 Conference of State Bank Supervisors and the American
28 Association of Residential Mortgage Regulators, or their
29 successors, and utilized for licensing and registering residential
30 mortgage lenders and residential mortgage brokers as business
31 licensees in accordance with this act, and residential mortgage
32 lenders and brokers as qualified individual licensees and mortgage
33 loan originators as required pursuant to the federal "Secure and Fair
34 Enforcement for Mortgage Licensing Act of 2008," title V of
35 Pub.L.110-289 (12 U.S.C. s.5101 et seq.).

36 "Nontraditional mortgage product" means any mortgage product
37 other than a 30-year fixed rate residential mortgage loan.

38 "Open-end loan" means a secondary mortgage loan made by a
39 residential mortgage lender pursuant to a written agreement with the
40 borrower whereby:

41 (1) The lender may permit the borrower to obtain advances of
42 money from the lender from time to time or the lender may advance
43 money on behalf of the borrower from time to time as directed by
44 the borrower;

45 (2) The amount of each advance and permitted interest and
46 charges are debited to the borrower's account and payments and
47 other credits are credited to the same account;

1 (3) Interest is computed on the unpaid principal balance or
2 balances of the account from time to time; and

3 (4) The borrower has the privilege of paying the account in full
4 at any time or, if the account is not in default, in monthly
5 installments of fixed or determinable amounts as provided in the
6 agreement.

7 "Out-of-State mortgage loan originator" means an individual
8 who maintains a unique identifier through the Nationwide Mortgage
9 Licensing System and Registry and currently holds a valid
10 mortgage loan originator license issued pursuant to the law of any
11 state or other jurisdiction within the United States.

12 "Person" means an individual, sole proprietor, association, joint
13 venture, partnership, limited partnership association, limited
14 liability company, corporation, trust, or any other group of
15 individuals however organized.

16 "Primary market" means the market wherein residential
17 mortgage loans are originated between a residential mortgage lender
18 and a borrower, whether or not through a residential mortgage
19 broker or other conduit, and shall not include the sale or acquisition
20 of a residential mortgage loan after the mortgage loan is closed.

21 "Qualified individual licensee" means an individual **【**licensed as
22 a residential mortgage lender or residential mortgage broker,**】** who
23 is required to be licensed under this act as a condition for a person
24 to be issued or hold a license as a business licensee, whereby the
25 individual: (1) meets, at a minimum, the licensing criteria
26 applicable to a mortgage loan originator; and (2) is an officer,
27 director, partner, owner, or principal of the business licensee.

28 "Registered mortgage loan originator" means any individual
29 who:

30 (1) is a mortgage loan originator and an employee of:

31 (a) a depository institution;

32 (b) a subsidiary that is (i) owned and controlled by a depository
33 institution and (ii) regulated by a federal banking agency; or

34 (c) an institution regulated by the Farm Credit Administration
35 established by section 5.7 of the "Farm Credit Act of 1971,"
36 Pub.L.92-181 (12 U.S.C. s.2241), or its successor; and

37 (2) is registered with, and maintains a unique identifier through,
38 the Nationwide Mortgage Licensing System and Registry.

39 "Residential mortgage broker" means any person, not exempt
40 under section 5 of this act and licensed pursuant to the provisions of
41 this act, and any person who should be licensed pursuant to the
42 provisions of this act, who for compensation or gain, or in the
43 expectation of compensation or gain, either directly or indirectly
44 takes a residential mortgage loan application for others, or
45 negotiates, places or sells for others, or offers to take an application
46 for, negotiate, place or sell, residential mortgage loans in the
47 primary market for others. **【**The term "residential mortgage broker"

1 also means an individual who is a qualified individual licensee for a
2 residential mortgage broker.】

3 "Residential mortgage lender" means any person, not exempt
4 under section 5 of this act and licensed pursuant to the provisions of
5 this act, and any person who should be licensed pursuant to the
6 provisions of this act, who for compensation or gain, or in the
7 expectation of compensation or gain, either directly or indirectly
8 takes a residential mortgage loan application, or offers, negotiates,
9 originates, or acquires residential mortgage loans in the primary
10 market. The term "residential mortgage lender" also means【: (1)】,
11 with respect to a business licensee, a correspondent mortgage
12 lender, unless the provisions of this act clearly indicate otherwise【;】
13 and (2) with respect to an individual licensee, an individual who is a
14 qualified individual licensee for a residential mortgage lender】.

15 "Residential mortgage loan" means any loan primarily for
16 personal, family, or household purposes that is secured by a
17 mortgage, deed of trust, or other equivalent consensual security
18 interest on a dwelling, as defined in section 【103(v) of the Truth in
19 Lending Act, Pub.L.90-321 (15 U.S.C. s.1602(v))】 103(w) of the
20 Truth in Lending Act, Pub.L.90-321 (15 U.S.C. s.1602(w)), or
21 residential real estate upon which is constructed or intended to be
22 constructed a dwelling.

23 "Residential real estate" means any real property located in this
24 State, upon which is constructed or intended to be constructed a
25 dwelling as defined in section 【103(v) of the Truth in Lending Act,
26 Pub.L.90-321 (15 U.S.C. s.1602(v))】 103(w) of the Truth in
27 Lending Act, Pub.L.90-321 (15 U.S.C. s.1602(w)).

28 "Secondary mortgage loan" means a loan made to an individual,
29 association, joint venture, partnership, limited partnership
30 association, limited liability company, trust, or any other group of
31 individuals, however organized, except a corporation, which is
32 secured in whole or in part by a lien upon any interest in real
33 property, including but not limited to shares of stock in a
34 cooperative corporation, created by a security agreement, including
35 a mortgage, indenture, or any other similar instrument or document,
36 which real property is subject to one or more prior mortgage liens
37 and on which there is erected a structure containing a one, two,
38 three, or four family dwelling, as defined in section 【103(v) of the
39 Truth in Lending Act, Pub.L.90-321 (15 U.S.C. s.1602(v))】 103(w)
40 of the Truth in Lending Act, Pub.L.90-321 (15 U.S.C. s.1602(w)), a
41 portion of which structure may be used for nonresidential
42 purposes【,】 except that the following loans shall not be subject to the
43 provisions of this act: (1) a loan which is to be repaid in 90 days or
44 less; (2) a loan which is taken as security for a home repair contract
45 executed in accordance with the provisions of the "Home Repair
46 Financing Act," P.L.1960, c.41 (C.17:16C-62 et seq.); or (3) a loan
47 which is the result of the private sale of a dwelling, if title to the

1 dwelling is in the name of the seller and the seller has resided in
2 that dwelling for at least one year, if the buyer is purchasing that
3 dwelling for his own residence and, if the buyer, as part of the
4 purchase price, executes a secondary mortgage in favor of the
5 seller】.

6 “Sponsor” means a business licensee that employs a qualified
7 individual licensee, a mortgage loan originator, or an applicant for a
8 transitional mortgage loan originator license.

9 “State” means any state of the United States, the District of
10 Columbia, any territory of the United States, Puerto Rico, Guam,
11 American Samoa, the U.S. Virgin Islands, and the Commonwealth
12 of the Northern Mariana Islands unless the context clearly indicates
13 otherwise.

14 “Transitional mortgage loan originator license” or “transitional
15 license” means a license, issued to an out-of-State mortgage loan
16 originator that provides temporary authority to engage in the
17 business of mortgage loan origination in this State pending the
18 completion by the transitionally licensed individual of the
19 requirements for licensure as a New Jersey mortgage loan originator
20 as set forth in section 7 of P.L.2009, c.53 (C.17:11C-57). A
21 transitional mortgage loan originator license shall be valid for a
22 term of no longer than 90 days.

23 "Unique identifier" means a number or other identifier for a
24 mortgage loan originator or a qualified individual licensee as a
25 residential mortgage lender or residential mortgage broker, assigned
26 by protocols established by the Nationwide Mortgage Licensing
27 System and Registry.

28 (cf: P.L.2009, c.53, s.3)

29

30 2. Section 4 of P.L.2009, c.53 (C.17:11C-54) is amended to
31 read as follows:

32 4. Except as provided under section 5 of this act, beginning no
33 later than July 31, 2010, or a later date approved by the Secretary of
34 the United States Department of Housing and Urban Development
35 pursuant to the provisions of section 1508 of the federal "Secure
36 and Fair Enforcement for Mortgage Licensing Act of 2008,"
37 Pub.L.110-289 (12 U.S.C. s.5107), the licensing requirements under
38 this act shall be as follows:

39 a. For residential mortgage lenders and residential mortgage
40 brokers, as business licensees:

41 (1) No person shall act as a residential mortgage lender or
42 broker without first obtaining a license under this act, except that a
43 person licensed as a residential mortgage lender may act as a
44 broker, if proper disclosure is made. The department shall issue
45 licenses which specify whether a business licensee is licensed as a
46 residential mortgage lender or broker.

47 (2) No person shall be issued or hold a license as a residential
48 mortgage lender or residential mortgage broker unless one officer,

1 director, partner, owner or principal is a qualified individual
2 licensee **【of that same type sought or held】**. The commissioner
3 may, by regulation, require a licensed residential mortgage lender
4 or broker to employ additional qualified individual licensees to
5 properly supervise the business licensee in its branch offices. If a
6 qualified individual licensee allows his license to lapse or for some
7 other reason is no longer affiliated with the business licensee, the
8 business licensee shall notify the commissioner within 10 days, and
9 shall appoint another qualified individual licensee within 90 days or
10 a longer period as permitted by the commissioner.

11 (3) No person licensed as a mortgage banker, correspondent
12 mortgage banker, mortgage broker, or secondary lender under the
13 provisions of the "New Jersey Licensed Lenders Act," sections 1
14 through 49 of P.L.1996, c.157 (C.17:11C-1 et seq.), prior to the
15 effective date of its reform and re-titling as the "New Jersey
16 Consumer Finance Licensing Act" pursuant to P.L.2009, c.53
17 (C.17:11C-51 et al.), shall continue to engage in any activities for
18 which a license was previously issued, and henceforth act as a
19 residential mortgage lender or residential mortgage broker without
20 first obtaining a license under this act.

21 (4) No person licensed as an insurance producer under the
22 provisions of P.L.2001, c.210 (C.17:22A-26 et seq.) with title
23 insurance authority shall be licensed as a business licensee or
24 engage in the business of mortgage loan origination in accordance
25 with section 1 of P.L.1991, c.18 (C.17:46B-30.1).

26 b. For **【residential mortgage lenders and residential mortgage**
27 **brokers, as】** qualified individual licensees:

28 (1) No individual shall act as a qualified individual licensee for
29 a residential mortgage lender or residential mortgage broker without
30 first obtaining a license under this act. A qualified individual
31 licensee **【licensed as a residential mortgage lender or broker】** may
32 act as a mortgage loan originator.

33 (2) No individual licensee for a mortgage banker, correspondent
34 mortgage banker, mortgage broker, or secondary lender under the
35 provisions of the "New Jersey Licensed Lenders Act," sections 1
36 through 49 of P.L.1996, c.157 (C.17:11C-1 et seq.), prior to the
37 effective date of its reform and re-titling as the "New Jersey
38 Consumer Finance Licensing Act" pursuant to P.L.2009, c.53
39 (C.17:11C-51 et al.), shall continue to engage in any activities for
40 which a license was previously issued, and henceforth act as a
41 qualified individual licensee without first obtaining a license under
42 this act.

43 (3) No person licensed as an insurance producer under the
44 provisions of P.L.2001, c.210 (C.17:22A-26 et seq.) with title
45 insurance authority shall be licensed as a qualified individual
46 licensee or engage in the business of mortgage loan origination in
47 accordance with section 1 of P.L.1991, c.18 (C.17:46B-30.1).

48 c. For mortgage loan originators:

1 (1) (a) No individual shall act as a mortgage loan originator
2 without first obtaining a license or transitional license under this
3 act.

4 (b) No individual, except as provided in paragraph (2) of this
5 subsection, shall be issued or hold a license or transitional license
6 as a mortgage loan originator unless employed as an originator by
7 one, and not more than one, business licensee, and is subject to the
8 direct supervision and control of that licensee, employed by an
9 exempt company, or who is under a written agreement with and
10 sponsored in the Nationwide Mortgage Licensing System by one,
11 and not more than one, person exempt from licensing requirements
12 and registered with the department under subsection a. of section 5
13 of P.L.2009, c.53 (C.17:11C-55), and is subject to the direct
14 supervision and control of that exempt person.

15 (2) No individual shall act as a loan processor or underwriter
16 who is an independent contractor **【**shall act as a loan processor or
17 **】** or employed by an independent contractor without
18 first obtaining a mortgage loan originator license under this act,
19 except as provided in subsection d. of this section.

20 (3) No individual registered as a mortgage solicitor under the
21 provisions of the "New Jersey Licensed Lenders Act," sections 1
22 through 49 of P.L.1996, c.157 (C.17:11C-1 et seq.), prior to the
23 effective date of its reform and re-titling as the "New Jersey
24 Consumer Finance Licensing Act" pursuant to P.L.2009, c.53
25 (C.17:11C-51 et al.), shall continue to engage in any activities for
26 which a registration was previously issued, and henceforth act as a
27 mortgage loan originator without first obtaining a license under this
28 act.

29 (4) No person licensed as an insurance producer under the
30 provisions of P.L.2001, c.210 (C.17:22A-26 et seq.) with title
31 insurance authority shall be licensed as a mortgage loan originator
32 or engage in the business of mortgage loan origination in
33 accordance with section 1 of P.L.1991, c.18 (C.17:46B-30.1).

34 d. For exempt companies:

35 (1) No person shall qualify for registration as an exempt
36 company unless the person is in the business of mortgage loan
37 origination solely by virtue of its performance of loan processing or
38 underwriting functions. The commissioner shall have the authority
39 to adopt rules in accordance with the "Administrative Procedure
40 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) specifying additional
41 criteria on the basis of which a person in the business of mortgage
42 loan origination solely by virtue of its performance of loan
43 processing or underwriting functions may qualify for registration as
44 an exempt company.

45 (2) An exempt company shall register with the commissioner
46 and with the Nationwide Mortgage Licensing System and Registry.
47 An applicant for registration or for renewal of registration as an
48 exempt company shall:

1 (a) Submit a completed application to the commissioner on the
2 form, in the manner, and with the appropriate evidence in support of
3 the application as may be prescribed by the commissioner;

4 (b) Pay to the commissioner at the time of application a
5 nonrefundable application fee not to exceed \$500 as established by
6 the commissioner by regulation;

7 (c) Pay to the Nationwide Mortgage Licensing System and
8 Registry any fees required by that system and registry, or any fees
9 which, by arrangement of the commissioner, are payable to the
10 Nationwide Mortgage Licensing System and Registry on behalf of
11 the commissioner; and

12 (d) Obtain a blanket bond in an amount and form prescribed by
13 the commissioner, but not less than \$25,000. The bond shall be
14 obtained from a surety company authorized by law to do business in
15 this State. The exempt company shall procure the bond to cover its
16 mortgage loan origination related activities. The bond shall run to
17 the State for the benefit of any person injured by the wrongful act,
18 default, fraud or misrepresentation of any person covered by the
19 bond. No bond shall comply with the requirements of this
20 subparagraph unless the bond contains a provision that it shall not
21 be canceled for any cause unless notice of intention to cancel is
22 filed in the department at least 30 days before the day upon which
23 cancellation shall take effect.

24 (3) A registered exempt company shall:

25 (a) Respond in a timely manner to any request of the
26 commissioner for the production of and access to books, records,
27 accounts, documents or other information relative to its operations;

28 (b) Submit to the Nationwide Mortgage Licensing System and
29 Registry a mortgage call report of conditions, in the form and
30 manner, and with such information, at any time as may be required
31 by the nationwide system and registry, and any other report to, or
32 through, the nationwide system and registry pursuant to an
33 arrangement for reporting and sharing information;

34 (c) Provide written notice to the commissioner within 10 days of
35 the occurrence of any event that would cause the exempt company
36 to no longer qualify for registration as such under the terms of this
37 subsection d. and so notify in writing all licensed mortgage loan
38 originators employed or retained by the exempt company; and

39 (d) Employ at least one individual who is licensed as a mortgage
40 loan originator who shall not engage in the origination of mortgage
41 loans under P.L. , c. (pending before the Legislature as this bill)
42 and shall be assigned supervision and instruction duties with respect
43 to individuals employed as loan processors or loan underwriters as
44 defined in section 3 of P.L.2009, c.53 (C.17:11C-53).

45 (cf: P.L.2015, c.14, s.1)

46

47 3. Section 5 of P.L.2009, c.53 (C.17:11C-55) is amended to
48 read as follows:

- 1 5. The requirements of this act shall not apply to:
- 2 a. Depository institutions; but subsidiaries and service
3 corporations of these institutions shall not be exempt. A depository
4 institution may register with the department for the purpose of
5 sponsoring individuals, licensed as mortgage loan originators
6 subject to subparagraph (b) of paragraph (1) of subsection c. of
7 section 4 of P.L.2009, c.53 (C.17:11C-54), provided that such
8 registered entity obtains and maintains bond coverage for mortgage
9 loan originators consistent with section 13 of P.L.2009, c.53
10 (C.17:11C-63). A depository institution registered with the
11 department in accordance with this subsection a. shall otherwise
12 remain exempt from the licensing requirements of P.L.2009, c.53
13 (C.17:11C-51 et seq.).
- 14 b. A registered mortgage loan originator that is registered
15 under the federal "Secure and Fair Enforcement for Mortgage
16 Licensing Act of 2008," title V of Pub.L.110-289 (12 U.S.C. s.5101
17 et seq.).
- 18 c. A licensed attorney who negotiates the terms of a residential
19 mortgage loan on behalf of a client as an ancillary matter to the
20 attorney's representation of the client, unless the attorney is
21 compensated by a residential mortgage lender, residential mortgage
22 broker, or mortgage loan originator.
- 23 d. A person licensed as a real estate broker or salesperson
24 pursuant to R.S.45:15-1 et seq., and not engaged in the business of a
25 residential mortgage lender or residential mortgage broker. Any
26 person holding a license under this act as a residential mortgage
27 lender or broker shall be exempt from the licensing and other
28 requirements of R.S.45:15-1 et seq. in the performance of those
29 functions authorized by this act.
- 30 e. Any employer, other than a residential mortgage lender, who
31 provides residential mortgage loans to his employees as a benefit of
32 employment which are at an interest rate which is not in excess of
33 the usury rate in existence at the time the loan is made, as
34 established in accordance with the law of this State, and on which
35 the borrower has not agreed to pay, directly or indirectly, any
36 charge, cost, expense or any fee whatsoever, other than that interest.
- 37 f. The State of New Jersey or a municipality, or any agency or
38 instrumentality thereof, which, in accordance with a housing
39 element that has received substantive certification from the Council
40 on Affordable Housing pursuant to the "Fair Housing Act,"
41 P.L.1985, c.222 (C.52:27D-301 et al.), or in fulfillment of a
42 regional contribution agreement with a municipality that has
43 received a certification, employs or proposes to employ municipally
44 generated funds, funds obtained through any State or federal
45 subsidy, or funds acquired by the municipality under a regional
46 contribution agreement, to finance the provision of affordable
47 housing by extending loans or advances, the repayment of which is

1 secured by a lien, subordinate to any prior lien, upon the property
2 that is to be rehabilitated.

3 g. Any individual who offers or negotiates terms of a
4 residential mortgage loan:

5 (1) with or on behalf of an immediate family member; or

6 (2) secured by a dwelling that **【served】** serves as the
7 individual's residence.

8 h. Any person who, during a calendar year takes three or fewer
9 residential mortgage loan applications or offers or negotiates the
10 terms of three or fewer residential mortgage loans or makes three or
11 fewer residential mortgage loans related to manufactured housing
12 structures which are:

13 (1) titled by the New Jersey Motor Vehicle Commission;

14 (2) located in a mobile home park as defined in subsection e. of
15 section 3 of P.L.1983, c.400 (C.54:4-1.4); and

16 (3) exempt from taxation as real property pursuant to subsection
17 b. of section 4 of P.L.1983, c.400 (C.54:4-1.5).

18 i. A bona fide not for profit entity and any individuals directly
19 employed by that entity, so long as the entity maintains its tax
20 exempt status under Section 501(c)(3) of the Internal Revenue Code
21 of 1986 and otherwise meets the definition of "bona fide not for
22 profit entity" in section 3 of P.L.2009, c.53 (C.17:11C-53), as
23 periodically determined by the department in accordance with rules
24 established by the commissioner.

25 (cf: P.L.2015, c.14, s.2)

26

27 4. Section 6 of P.L.2009, c.53 (C.17:11C-56) is amended to
28 read as follows:

29 6. Beginning no later than July 31, 2010, or a later date
30 approved by the Secretary of the United States Department of
31 Housing and Urban Development pursuant to the provisions of
32 section 1508 of the federal "Secure and Fair Enforcement for
33 Mortgage Licensing Act of 2008," Pub.L.110-289 (12 U.S.C.
34 s.5107), the commissioner shall begin issuing licenses for business
35 licensees as residential mortgage lenders or residential mortgage
36 brokers under this act if the following conditions are met:

37 a. A completed application for a new license or for a renewal
38 of a license, submitted to the commissioner on the form, in the
39 manner, and with appropriate evidence in support of the application,
40 as required by this act and as may be prescribed by the
41 commissioner.

42 b. The submission to the commissioner of the name, address,
43 fingerprints and written consent for a criminal history record
44 background check to be performed on any officer, director, partner
45 or owner of a controlling interest of the person seeking licensure.
46 The commissioner is authorized to exchange fingerprint data with
47 and receive criminal history record information from the State
48 Bureau of Identification in the Division of State Police and the

1 Federal Bureau of Investigation consistent with applicable State and
2 federal laws, rules and regulations, for the purposes of facilitating
3 determinations concerning licensure eligibility for the person, based
4 upon any findings related to an officer, director, partner or owner.
5 The applicant shall bear the cost for the criminal history record
6 background check, including all costs of administering and
7 processing the check. The Division of State Police shall promptly
8 notify the commissioner in the event an officer, director, partner or
9 owner of the person, who was the subject of a criminal history
10 record background check pursuant to this section, is arrested for a
11 crime or offense in this State after the date the background check
12 was performed, whether the person is a prospective new licensee, or
13 subsequently, a current license holder.

14 c. A finding by the commissioner that the financial
15 responsibility, experience, character, and general fitness of the
16 person seeking licensure demonstrates that as a business licensee,
17 the person will operate honestly, fairly, and efficiently within the
18 purposes of this act. The commissioner may require any officer,
19 director, partner, owner, or principal of an entity seeking licensure
20 as a business licensee to authorize the Nationwide Mortgage
21 Licensing System and Registry to obtain a credit report on such
22 individual and at their cost.

23 d. A demonstration of an affiliated qualified individual licensee
24 for the applicant, as required by paragraph (2) of subsection a. of
25 section 4 of this act.

26 e. A demonstration of coverage by a surety bond as required by
27 section 13 of this act.

28 f. A demonstration of the tangible net worth requirements as
29 required by section 14 of this act.

30 g. The payment of any required fees under this act, as
31 established by the commissioner by regulation and payable to the
32 commissioner or, by arrangement of the commissioner, to the
33 Nationwide Mortgage Licensing System and Registry on behalf of
34 the commissioner, or as set forth by the nationwide system and
35 registry and payable to that nationwide system and registry.

36 h. A person whose application is deemed abandoned shall be
37 required to submit a new application in order to obtain licensure as
38 a business licensee. The commissioner may adopt rules addressing
39 notices of abandonment and the subsequent submission of new
40 applications.

41 (cf: P.L.2009, c.53, s.6)

42

43 5. Section 7 of P.L.2009 c.53 (C.17:11C-57) is amended to
44 read as follows:

45 7. Beginning no later than July 31, 2010, or a later date
46 approved by the Secretary of the United States Department of
47 Housing and Urban Development pursuant to the provisions of
48 section 1508 of the federal "Secure and Fair Enforcement for

1 Mortgage Licensing Act of 2008," Pub.L.110-289 (12 U.S.C.
2 s.5107), the commissioner shall begin issuing licenses for
3 individual licensees under this act, utilizing the Nationwide
4 Mortgage Licensing System and Registry, or other entity designated
5 by that nationwide system and registry, as required or permitted by
6 the federal "Secure and Fair Enforcement for Mortgage Licensing
7 Act of 2008" and as otherwise deemed appropriate by the
8 commissioner to carry out the provisions of this act, if the following
9 conditions are met:

10 a. For mortgage loan originators and transitional mortgage loan
11 originators:

12 (1) A completed application for a new license or for a renewal
13 of a license, submitted to the commissioner on the form, in the
14 manner, and with appropriate evidence in support of the application,
15 as required by this act and as may be prescribed by the
16 commissioner.

17 (2) A background check in connection with an application,
18 based upon information provided to and received from the Division
19 of State Police, and provided to and received from or through the
20 Nationwide Mortgage Licensing System and Registry, which does
21 not contain any disqualifying information as set forth in this
22 paragraph. The background check shall include a State criminal
23 history record background check based upon an exchange of
24 fingerprint data with the State Bureau of Identification in the
25 Division of State Police, for which the division shall promptly
26 notify the commissioner if the subject of the original criminal
27 history record background check is arrested for a crime or offense
28 in this State after the date the background check was performed,
29 and a check of both criminal and non-criminal information as
30 requested from and distributed to the Federal Bureau of
31 Investigation and any other governmental agency through the
32 Nationwide Mortgage Licensing System and Registry as follows:

33 (a) fingerprints, for submission to the Federal Bureau of
34 Investigation and any other governmental agency authorized to
35 receive this information for a state, federal, and international
36 criminal history record background check, to determine whether the
37 individual has been convicted of, or pled guilty or nolo contendere
38 to, a felony in a domestic court, which in this State includes any
39 crime of the fourth degree or higher punishable by a term of
40 imprisonment of more than one year, or in a foreign or military
41 court:

42 (i) during the seven-year period preceding the filing of the
43 application, except that a conviction under this sub-subparagraph
44 which is pardoned or expunged shall not be considered
45 disqualifying information; or

46 (ii) at any time preceding the filing of the application, if the
47 felony involved an act of fraud, dishonesty, a breach of trust, or
48 money laundering, except that a conviction under this sub-

1 subparagraph which is pardoned or expunged shall not be
2 considered disqualifying information; and

3 (b) personal history and experience, collected in a form
4 prescribed by the Nationwide Mortgage Licensing System and
5 Registry, and with the permission of the applicant, in order for that
6 nationwide system and registry and the commissioner to obtain:

7 (i) an independent credit report from a consumer reporting
8 agency described in section 603(p) of the Fair Credit Reporting Act,
9 Pub.L.91-508 (15 U.S.C. s.1681a(p)), for use in making a
10 determination of character and fitness pursuant to paragraph (3) of
11 this subsection; and

12 (ii) information related to any administrative, civil or criminal
13 findings by any governmental jurisdiction, to determine whether the
14 individual had a mortgage loan originator license revoked in any
15 governmental jurisdiction, except that a subsequent, formal vacation
16 of a revocation shall not be considered disqualifying information.

17 (3) A determination of character and fitness, based upon the
18 information related to personal history and experience obtained
19 pursuant to subparagraph (b) of paragraph (2) of this subsection and
20 other available sources, whereby the applicant has demonstrated
21 financial responsibility, character, and general fitness as to
22 command the confidence of the community and to warrant a
23 determination that as a mortgage loan originator the applicant will
24 operate honestly, fairly, and efficiently within the purposes of this
25 act. For the purposes of this paragraph, a determination by the
26 National Mortgage Licensing System and Registry that the
27 applicant cheated or attempted to cheat on an examination required
28 for licensure or for continued licensure under P.L.2009, c.53
29 (C.17:11C-51 et seq.) shall be evidence that the applicant lacks the
30 requisite character and fitness for licensure. For purposes of this
31 paragraph, an applicant has demonstrated not to be financially
32 responsible if the applicant has shown a disregard in the
33 management of the applicant's own financial condition, which may
34 include, but is not limited to:

35 (a) current outstanding judgments, except judgments solely as a
36 result of medical expenses;

37 (b) current outstanding tax liens or other government liens and
38 filings;

39 (c) foreclosures during the three-year period preceding the filing
40 of the application; or

41 (d) a pattern of seriously delinquent accounts during the three-
42 year period preceding the filing of the application.

43 (4) A demonstration of employment by one, and not more than
44 one, business licensee as required by paragraph (1) of subsection c.
45 of section 4 of this act.

46 (5) The completion of any pre-licensing education requirements
47 as set forth in section 9 of this act.

1 (6) The successful passage of a qualified written test based upon
2 the testing requirements as set forth in section 10 of this act.

3 (7) The completion of any continuing education requirements, if
4 applicable, as set forth in section 11 of this act.

5 (8) A registration with the Nationwide Mortgage Licensing
6 System and Registry as required by section 12 of this act.

7 (9) A demonstration of coverage by a surety bond as required by
8 section 13 of this act.

9 (10) The payment of any required fees under this act, as
10 established by the commissioner by regulation and payable to the
11 commissioner or, by arrangement of the commissioner, to the
12 Nationwide Mortgage Licensing System and Registry on behalf of
13 the commissioner, or as set forth by the nationwide system and
14 registry and payable to that nationwide system and registry.

15 b. For [residential mortgage lenders and residential mortgage
16 brokers, as] qualified individual licensees:

17 (1) A completed application for a new license or for a renewal
18 of a license as a qualified licensed individual for a residential
19 mortgage lender or broker, submitted to the commissioner on the
20 form, in the manner, and with appropriate evidence in support of the
21 application, whereby the applicant follows the licensing procedure
22 and meets the licensing criteria applicable to a mortgage loan
23 originator, as set forth in subsection a. of this section, except that
24 the applicant shall not request or be issued a separate license as a
25 mortgage loan originator under that subsection.

26 (2) A determination with respect to any stricter or additional
27 licensing requirements that the commissioner may, by regulation,
28 establish.

29 (3) The payment of any required fees under this act, as
30 established by the commissioner by regulation and payable to the
31 commissioner or, by arrangement of the commissioner, to the
32 Nationwide Mortgage Licensing System and Registry on behalf of
33 the commissioner, or as set forth by the nationwide system and
34 registry and payable to that nationwide system and registry.

35 c. For individuals, the following provisions shall also apply:

36 (1) An applicant for a mortgage loan originator license who has
37 met all the requirements for licensure except the demonstration of
38 employment referenced in paragraph (4) of subsection a. of this
39 section shall be considered to be in approved inactive status and
40 designated as such in the Nationwide Mortgage Licensing System
41 and Registry and may remain in that status for as long as the
42 applicant renews the approved inactive status annually and meets
43 the continuing education requirements as required by section 11 of
44 P.L.2009, c.53 (C.17:11C-61).

45 (2) An applicant for licensure as an individual licensee who has
46 unresolved credit issues but who demonstrates to the satisfaction of
47 the commissioner a good faith effort to achieve the level of
48 financial responsibility required by paragraph (3) of subsection a. of

1 section 7 of P.L.2009, c.53 (C.17:11C-57) may be deemed in
2 approved conditional status and be designated as such in the
3 Nationwide Mortgage Licensing System and Registry. The
4 applicant may remain in approved conditional status so long as the
5 applicant continues to demonstrate substantial progress toward the
6 achievement of financial responsibility, renews the applicant's
7 mortgage loan originator license or qualified individual license
8 annually, and meets the continuing education requirements
9 established by section 11 of P.L.2009, c.53 (C.17:11C-61). Upon
10 demonstration to the satisfaction of the commissioner that the
11 applicant has achieved financial responsibility, and predicated on
12 the applicant continuing to fulfill all other applicable requirements
13 for such status, the license status of the individual shall be revised
14 to approved. While the applicant's license is in approved
15 conditional status, an individual may engage in activity as a
16 mortgage loan originator or a qualified individual licensee in
17 accordance with the provisions of P.L.2009, c.53 (C.17:11C-1 et
18 seq.) and all applicable rules.

19 (3) For applicants as individual licensees, an offense that was
20 the subject of an order granting the individual admission to the New
21 Jersey Pre-trial Intervention Program pursuant to the provisions of
22 N.J.S.2C:43-12 through 22, and such offense having been dismissed
23 with prejudice in accordance with subsection d. of N.J.S.2C:43-13,
24 or the applicant having been admitted to a functionally equivalent
25 program of another state or of the United States whereby an offense
26 was dismissed or a felony conviction was avoided or eliminated
27 from the record upon the applicant having successfully completed
28 the program as established by the submission of confirming
29 documentation, shall not be considered disqualifying information
30 for purposes of subsection a. of this section.

31 (4) The commissioner may deem abandoned an application for
32 licensure as a mortgage loan originator, transitional mortgage loan
33 originator, or a qualified individual licensee if the application fails
34 to meet all of the requirements of a complete application within 90
35 days of the date on which the application was initially submitted. A
36 person whose application is deemed abandoned shall be required to
37 submit a new application in order to pursue licensure as a mortgage
38 loan originator, transitional mortgage loan originator, or a qualified
39 individual licensee. The commissioner may adopt rules addressing
40 notices of abandonment and the subsequent submission of new
41 applications.

42 (cf: P.L.2009, c.53, s.7)

43

44 6. Section 8 of P.L.2009, c.53 (C.17:11C-58) is amended to
45 read as follows:

1 8. a. An applicant for a new license or for a renewal of a
2 license to be a residential mortgage lender or residential mortgage
3 broker, as a business licensee:

4 (1) Shall pay to the commissioner at the time of the application
5 a nonrefundable application fee, as established by the commissioner
6 through regulation, not to exceed \$2,800. The nonrefundable
7 application fee is required for each residential mortgage lender or
8 broker license issued, including for each branch office license of a
9 business licensee.

10 (2) Shall additionally pay to the Nationwide Mortgage
11 Licensing System and Registry any required fees as set forth by that
12 nationwide system and registry, or any commissioner's fees, which
13 by arrangement of the commissioner, are payable to the nationwide
14 system and registry on behalf of the commissioner.

15 b. An applicant for a new license or for a renewal of a license
16 **【to be a residential mortgage lender or residential mortgage**
17 **broker,】** as a qualified individual licensee:

18 (1) Shall pay to the commissioner at the time of the application
19 a nonrefundable application fee, as established by the commissioner
20 through regulation, not to exceed \$500.

21 (2) Shall additionally pay to the Nationwide Mortgage
22 Licensing System and Registry any required fees as set forth by that
23 nationwide system and registry, or any commissioner's fees, which
24 by arrangement of the commissioner, are payable to the nationwide
25 system and registry on behalf of the commissioner.

26 c. An applicant for a new license or for a renewal of a license
27 to be a mortgage loan originator or transitional mortgage loan
28 originator:

29 (1) Shall pay to the commissioner at the time of the application
30 a nonrefundable application fee, as established by the commissioner
31 through regulation, not to exceed \$500. A mortgage loan
32 originator, **【other than a loan processor or underwriter who is an**
33 **independent contractor and subject to licensure pursuant to**
34 **paragraph (1) of subsection c. of section 4 of this act,】** who changes
35 the employment affiliation on his license**【, which affiliation is**
36 **required as a condition of licensure pursuant to paragraph (1) of**
37 **subsection c. of section 4 of this act,】** to a different business
38 licensee, shall be required to submit any documentation required by
39 regulation and **【pay another nonrefundable application fee】** comply
40 with all requirements applicable to such changes of employment as
41 prescribed by rule.

42 (2) Shall additionally pay to the Nationwide Mortgage
43 Licensing System and Registry any required fees as set forth by that
44 nationwide system and registry, or any commissioner's fees, which
45 by arrangement of the commissioner, are payable to the nationwide
46 system and registry on behalf of the commissioner.

47 (cf: P.L.2009, c.53, s.8)

1 7. Section 10 of P.L.2009, c.53 (C.17:11C-60) is amended to
2 read as follows:

3 10. a. (1) An applicant for a new license as a mortgage loan
4 originator or a qualified individual licensee shall pass, as a pre-
5 licensing requirement, a qualified written test, developed by the
6 Nationwide Mortgage Licensing System and Registry, and
7 administered by a test provider approved by the nationwide system
8 and registry, based upon reasonable standards established by that
9 nationwide system and registry. Pursuant to the reasonable
10 standards established by the nationwide system and registry, a
11 qualified written test may be administered at any location, including
12 the location of the employer or affiliated business licensee of the
13 applicant, or any subsidiary or affiliate of the applicant's employer
14 or affiliated business licensee, or any entity with which the
15 applicant holds an exclusive arrangement to engage in the business
16 of a residential mortgage lender, residential mortgage broker, or
17 mortgage loan originator.

18 (2) In addition to an applicant for a new license, an applicant for
19 a license reinstatement after failing to maintain a valid license for a
20 period of five years or longer shall be required to pass a qualified
21 written test as set forth in this section as a requirement for the
22 license reinstatement.

23 b. The qualified written test shall adequately measure the
24 applicant's knowledge and comprehension in appropriate subject
25 areas, which shall include at a minimum, but not be limited to:

26 (1) federal and State statutes and regulations pertaining to
27 mortgage origination;

28 (2) other federal and State statutes and regulations, including
29 those pertaining to fraud, consumer protection, fair lending issues,
30 and the nontraditional mortgage marketplace; and

31 (3) ethics.

32 c. An applicant shall only be considered to have passed the
33 qualified written test if the applicant achieves a test score of not less
34 than 75 percent correct answers to the test questions.

35 d. An applicant may take the qualified written test up to three
36 consecutive times in order to successfully pass and qualify for
37 licensure. The applicant shall not take a subsequent, consecutive
38 test until at least 30 calendar days next following the applicant's
39 preceding test date. If the applicant fails to pass the qualified
40 written test after three consecutive attempts, the applicant shall not
41 be permitted to retake the test for a period of at least six months
42 from the applicant's last preceding test date.

43 e. A determination by the National Mortgage Licensing System
44 and Registry that an applicant has engaged in or attempted to
45 engage in cheating while taking a qualified written test shall
46 constitute evidence that the applicant lacks the character and fitness
47 necessary to qualify for licensure pursuant to section 7 of P.L.2009,

1 c.53 (C.17:11C-57) and may be grounds for action on an existing
2 license pursuant to section 20 of P.L.2009, c.53 (C.17:11C-70).
3 (cf: P.L.2009, c.53, s.10)
4

5 8. Section 11 of P.L.2009, c.53 (C.17:11C-61) is amended to
6 read as follows:

7 11. a. An applicant for a renewal of a license as a mortgage loan
8 originator or a qualified individual licensee, shall complete, as a
9 requirement for the license renewal, at least 12 hours of education
10 from one or more continuing educational courses provided by a
11 continuing educational course provider, reviewed and approved by
12 the Nationwide Mortgage Licensing System and Registry, based
13 upon reasonable standards established by that nationwide system
14 and registry.

15 (1) Pursuant to the reasonable standards established by the
16 nationwide system and registry, an approved continuing educational
17 course provider may include the employer or affiliated business
18 licensee of the individual licensee, or an entity which is affiliated
19 with the individual licensee by an agency contract, or any
20 subsidiary or affiliate of the individual licensee's employer,
21 affiliated business licensee, or affiliated entity.

22 (2) Pursuant to the reasonable standards established by the
23 nationwide system and registry, an approved continuing educational
24 course may be offered at any location and by any means, including
25 live classroom instruction, prepared group or individual
26 coursework, or the Internet.

27 b. The approved continuing educational course shall include at
28 a minimum, but not be limited to:

29 (1) 3 hours of instruction on federal statutes and regulations;

30 (2) 2 hours of instruction on ethics, including instruction on
31 fraud, consumer protection, and fair **licensing** lending issues;
32 **[and]**

33 (3) 2 hours of training related to lending standards for the
34 nontraditional mortgage product marketplace; and

35 (4) 2 hours of instruction related to New Jersey laws and
36 regulations on residential mortgage lending.

37 c. (1) Except as set forth by the commissioner in regulations
38 consistent with this act and the provisions of the federal "Secure
39 and Fair Enforcement for Mortgage Licensing Act of 2008," title V
40 of Pub.L.110-289 (12 U.S.C. s.5101 et seq.), a licensed mortgage
41 loan originator, or a licensed residential mortgage lender or
42 residential mortgage broker as a qualified individual licensee, may
43 only receive credit for an approved continuing educational course:

44 (a) in the calendar year in which the licensee takes the course;
45 and

46 (b) that is not the same approved course already taken in that
47 calendar year or the immediately preceding calendar year.

1 (2) A licensed mortgage loan originator~~], residential mortgage~~
2 lender or broker~~]~~ or qualified individual licensee, who is an
3 approved instructor of an approved continuing educational course,
4 may receive credit towards the individual licensee's own continuing
5 educational requirements set forth in this section at the rate of two
6 hours of credit for every one hour of the approved continuing
7 educational course taught.

8 (3) If a licensed mortgage loan originator~~], residential mortgage~~
9 lender or broker~~]~~ or qualified individual licensee subsequently
10 becomes unlicensed, the individual licensee shall complete the
11 continuing educational requirements set forth in this section for the
12 last calendar year in which the individual was licensed as a
13 requirement for a license reinstatement.

14 d. Any continuing educational requirements of another state,
15 reviewed and approved by the Nationwide Mortgage Licensing
16 System and Registry, and completed by an applicant for a license
17 renewal in that state pursuant to the provisions of the federal
18 "Secure and Fair Enforcement for Mortgage Licensing Act of
19 2008," title V of Pub.L.110-289 (12 U.S.C. s.5101 et seq.), shall be
20 accepted by the commissioner from an applicant as credit towards
21 completion of the reviewed and approved continuing educational
22 requirements of this section for a license renewal in this State.

23 e. A determination by the National Mortgage Licensing System
24 and Registry that an applicant has engaged in or attempted to
25 engage in cheating while taking a continuing education course shall
26 constitute evidence that the applicant lacks the character and fitness
27 necessary for licensure pursuant to section 7 of P.L.2009, c.53
28 (C.17:11C-57) and may be grounds for action on an existing license
29 pursuant to section 20 of P.L.2009, c.53 (C.17:11C-70).

30 (cf: P.L.2009, c.53, s.11)

31
32 9. Section 12 of P.L.2009, c.53 (C.17:11C-62) is amended to
33 read as follows:

34 12. a. An applicant for an initial license or for a renewal of a
35 license as a mortgage loan originator, transitional mortgage loan
36 originator, or a qualified individual licensee shall, as a licensing
37 requirement, be registered and assigned a unique identifier through
38 the Nationwide Mortgage Licensing System and Registry.

39 b. (1) In order to ensure compliance by an applicant with this
40 registration requirement, the commissioner shall utilize, as required
41 or permitted by the "Secure and Fair Enforcement for Mortgage
42 Licensing Act of 2008," title V of Pub.L.110-289 (12 U.S.C. s.5101
43 et seq.) and as otherwise deemed appropriate by the commissioner,
44 the Nationwide Mortgage Licensing System and Registry.

45 (2) The commissioner is authorized, through regulation, to
46 coordinate the registration of an applicant through the nationwide
47 system and registry with the State licensing of the applicant under
48 this act, on any matters deemed necessary by the commissioner for

1 participation in that nationwide system and registry, including but
2 not limited to:

3 (a) background checks, including a criminal history record
4 background check, a check of administrative and civil records, and
5 a credit history check as set forth in section 7 of this act, and
6 concerning any other information deemed necessary by the
7 nationwide system and registry;

8 (b) setting or resetting of license renewal dates, and
9 requirements for amending or surrendering a license;

10 (c) reporting requirements as set forth pursuant to section 35 of
11 this act; and

12 (d) payment of any required fees, as established by the
13 commissioner and payable to the commissioner or to the nationwide
14 system and registry on behalf of the commissioner, and as set forth
15 by the nationwide system and registry and payable to that
16 nationwide system and registry.

17 (3) The commissioner shall, in order to participate in the
18 nationwide system and registry, regularly report violations of this
19 act by an applicant or licensee, as well as information concerning
20 enforcement actions on those violations, along with any other
21 relevant information, to the nationwide system and registry, in a
22 manner and frequency established by that nationwide system and
23 registry.

24 (4) The commissioner shall, in order to participate in the
25 nationwide system and registry, establish by regulation a process by
26 which an applicant or current licensee may request access to the
27 applicant's or licensee's information or material provided to,
28 received from, or collected by the nationwide system and registry,
29 and a process by which that applicant or licensee may correct,
30 amend or delete information or material disputed as incorrect or
31 incomplete.

32 (5) Except as provided under section 1512 of the federal "Secure
33 and Fair Enforcement for Mortgage Licensing Act of 2008,"
34 Pub.L.110-289 (12 U.S.C. s.5111), any requirement under federal
35 or State law, including P.L.1963, c.73 (C.47:1A-1 et seq.),
36 regarding the privacy or confidentiality of any information or
37 material provided to, received from, or collected by the nationwide
38 system and registry, and any privilege arising under federal or State
39 law, including any rules of court, with respect to the information or
40 material, shall continue to apply after the information or material
41 has been provided to, received from, or collected by the nationwide
42 system and registry. The privacy, confidentiality, or privilege shall
43 also continue to apply with respect to the sharing of the information
44 or material, pursuant to procedures set forth by the nationwide
45 system and registry, with any federal banking agency or other
46 federal agency with mortgage industry oversight authority, or any
47 state agency with mortgage industry oversight authority. This
48 paragraph shall not apply to any information or material relating to

1 the employment history of, and publicly adjudicated disciplinary or
2 enforcement actions against, an applicant or licensee that is
3 included in the nationwide system and registry for access by the
4 public, based upon reasonable standards established by the
5 nationwide system and registry.

6 (a) In order to ensure the application of privacy, confidentiality,
7 and privilege protections to information and material as set forth in
8 this paragraph, the commissioner may enter into any necessary
9 arrangement with the nationwide system and registry, other federal
10 or state agency, the Conference of State Bank Supervisors or its
11 successor organization, or other organization representing a federal
12 or state agency, regarding information and material the
13 commissioner shares, and information and materials shared with the
14 commissioner.

15 (b) The information and material subject to privacy,
16 confidentiality, or privilege protections as set forth in this
17 paragraph, notwithstanding any provisions of P.L.1963, c.73
18 (C.47:1A-1 et seq.) or any other State law concerning open records
19 to the contrary, shall not be subject to:

20 (i) disclosure under any federal or State law governing the
21 disclosure to the public of information or material held by an officer
22 or agency of the federal government or any state; or

23 (ii) subpoena or discovery, or admission into evidence, in any
24 private civil action or administrative process, except with respect to
25 any privacy, confidentiality, or privilege held by the nationwide
26 system and registry connected to an applicant's or licensee's
27 information or material that the applicant or licensee gives
28 permission to waive, in whole or in part.

29 (cf: P.L.2009, c.53, s.12)

30

31 10. Section 15 of P.L.2009, c.53 (C.17:11C-65) is amended to
32 read as follows:

33 15. a. A residential mortgage lender or residential mortgage
34 broker that is a business licensee may maintain a branch office or
35 offices. The business licensee shall obtain a license for each branch
36 office in this State and each branch office outside this State from
37 which the licensee has direct contact with New Jersey consumers
38 regarding origination or brokering.

39 b. The commissioner shall issue a branch office license for a
40 residential mortgage lender or broker if:

41 (1) The business licensee has submitted a completed branch
42 office application form, which includes any information required by
43 the commissioner concerning the branch office, and an application
44 fee pursuant to section 8 of this act;

45 (2) The application for the branch office demonstrates that the
46 office is in a suitable location; and

1 (3) The application contains a certification that the office is
2 covered by the business licensee's surety bond, required of that
3 licensee pursuant to section 13 of this act.

4 c. Each branch office shall be under the supervision of a
5 branch manager. A branch manager shall supervise only one branch
6 office at any given time except as may be permitted by the
7 commissioner in accordance with applicable rules. In order to act
8 in the capacity as a branch manager, an individual shall either
9 possess a mortgage loan originator license or, if unlicensed, the
10 qualified individual licensee of the business licensee shall certify
11 that when acting in the capacity of a branch manager the unlicensed
12 individual shall not engage in any activity that would require
13 licensure as a mortgage loan originator.

14 (cf: P.L.2009, c.53, s.15)

15
16 11. Section 17 of P.L.2009, c.53 (C.17:11C-67) is amended to
17 read as follows:

18 17. a. (1) The license for a residential mortgage lender or
19 residential mortgage broker, **[including]** and the license of a
20 qualified individual licensee, shall state the name of the business
21 licensee and the licensee's place or places of business, as applicable,
22 and shall contain any other information as the commissioner may
23 require pursuant to regulation. A license shall not be issued in a
24 name containing any words including "insured," "bonded,"
25 "guaranteed," "secured" and the like. Notwithstanding the
26 provisions of section 18 of P.L.1948, c.67 (C.17:9A-18) or any
27 other law to the contrary, a licensed residential mortgage lender or
28 broker may use the terms "mortgage lender" or "mortgage broker,"
29 respectively, as part of the licensee's name; a licensed residential
30 mortgage lender may also use the term "mortgage banker."

31 (2) The license of the business licensee shall be posted
32 conspicuously in the place or places of business of that licensee,
33 and the license of any qualified individual licensee shall be
34 maintained by that business licensee and available for public
35 inspection at the business licensee's place or places of business.

36 (3) A licensee or any other person shall not photocopy or
37 otherwise reproduce the license except for legitimate business
38 purposes or as required or permitted by the commissioner by
39 regulation.

40 (4) Licenses issued to a business licensee pursuant to this act
41 shall not be transferable or assignable, other than as provided by
42 section 19 of this act.

43 (5) No business licensee shall change **[the]** its name or the
44 address of the business licensee's place or places of business
45 without notice to the commissioner in accordance with regulations
46 as prescribed by the commissioner.

47 b. (1) The license for a mortgage loan originator shall state the
48 name of the originator's **[employing business licensee]** licensed or

1 registered employer and **【the licensee's place or places of business,**
2 **as applicable, and】** shall contain **【any】** such other information as
3 the commissioner **【may see fit to require】** deems necessary.

4 (2) The license shall be maintained by the licensee and available
5 for public inspection at the licensee's place or places of business.

6 (3) A licensee or any other person shall not photocopy or
7 otherwise reproduce the license except for legitimate business
8 purposes or as required or permitted by the commissioner by
9 regulation.

10 (4) No licensee shall change the name or address of the
11 licensee's place or places of business without notice to the
12 commissioner, in accordance with regulations as prescribed by the
13 commissioner.

14 (cf: P.L.2009, c.53, s.17)

15

16 12. Section 20 of P.L.2009, c.53 (C.17:11C-70) is amended to
17 read as follows:

18 20. a. The commissioner's authority with respect to issuing
19 licenses shall include the following:

20 (1) The commissioner may access, receive and use any
21 information or material required of an applicant or licensee
22 pursuant to sections 6 through 15 of this act, or any other
23 information or material deemed relevant, to determine whether to
24 issue or renew a license, or revoke, suspend, or refuse to renew a
25 license.

26 (2) The commissioner may refuse to issue a license if an
27 applicant fails to meet the requirements for licensure set forth in
28 sections 6 through 15 of P.L.2009, c.53 (C.17:11C-56 through
29 17:11C-65), as applicable.

30 **【(2)】** (3) The commissioner **【may refuse to issue, and】** may
31 revoke, suspend, or refuse to renew, a residential mortgage lender
32 or residential mortgage broker license, including the license of a
33 qualified individual licensee or a branch office license, or a
34 mortgage loan originator license, or transitional mortgage loan
35 originator license, or impose a penalty pursuant to this act, if the
36 commissioner finds, after notice and an opportunity for a hearing in
37 accordance with the "Administrative Procedure Act," P.L.1968,
38 c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder, that
39 any person**【, applicant for】** or holder of the license has:

40 (a) Violated any of the provisions of this act or any order, rule
41 or regulation made or issued pursuant to this act;

42 (b) Failed at any time to meet the requirements for licensure set
43 forth in sections 6 through 15 of this act, as applicable, or withheld
44 information or made a material misstatement in the application for
45 the license;

46 (c) Been convicted of an offense involving breach of trust,
47 moral turpitude or fraudulent or dishonest dealing, including but not

1 limited to the disqualifying criminal activities stated in paragraph
2 (2) of subsection a. of section 7 of this act, if applicable, or had a
3 final judgment entered against the person in a civil or administrative
4 action upon grounds of fraud, misrepresentation, deceit, or failure to
5 maintain books, accounts, records and other documents as required
6 by section 21 of this act;

7 (d) Failed to comply with any reporting requirements set forth
8 pursuant to section 35 of this act;

9 (e) Become insolvent;

10 (f) Demonstrated unworthiness, incompetence, bad faith or
11 dishonesty in the transaction of business as a licensee; or

12 (g) Engaged in any other conduct which would be deemed by
13 the commissioner to be the cause for denial, revocation, suspension,
14 or refusal of the license or license renewal.

15 ~~[(3)]~~ (4) A license of a business licensee may be suspended,
16 revoked, or not renewed if any officer, director, partner, or owner of
17 the licensee has committed any act which would be cause for
18 suspending, revoking or not renewing a license if issued to that
19 person as an individual.

20 ~~[(4)]~~ (5) If the license issued to a residential mortgage lender
21 or residential mortgage broker as a qualified individual licensee is
22 revoked or suspended, the affiliated license issued to the business
23 licensee shall also be revoked or suspended by the commissioner,
24 unless within the time fixed by the commissioner, in the case of a
25 partnership, the connection therewith of the offending qualified
26 individual licensee whose license has been revoked or suspended
27 shall be severed and that individual's interest in the partnership and
28 share in its activities brought to an end, or in the case of an
29 association, corporation, or other legal entity, the offending
30 qualified individual licensee whose license has been revoked or
31 suspended shall be discharged and shall have no further
32 participation in the legal entity's activities. In the case of an
33 offending qualified individual licensee who is an officer or director
34 of the corporation or other legal entity, that individual shall be
35 required to fully divest himself of all stock, bonds or other
36 corporate holdings.

37 b. The commissioner's authority with respect to oversight of
38 licensees, and enforcement of the activities regulated under this act,
39 shall include the following:

40 (1) The commissioner may access and examine books, accounts,
41 records and other documents maintained by a licensee pursuant to
42 section 21 of this act.

43 (2) The commissioner may conduct investigations or
44 examinations, which may include the subpoena of witnesses and
45 documents, pursuant to section 34 of this act.

46 (3) Whenever it appears to the commissioner that any person
47 has engaged, is engaged, or is about to engage in any practice or
48 transaction prohibited by this act, the commissioner may issue, in

1 accordance with the "Administrative Procedure Act," P.L.1968,
2 c.410 (C.52:14B-1 et seq.), a cease and desist order if the
3 commissioner determines it necessary. In addition to any other
4 remedy available, the commissioner may also bring a summary
5 action in a court of competent jurisdiction against a person, and any
6 other person concerned or in any way participating in or about to
7 participate in a practice or transaction in violation of this act, to
8 enjoin the person from continuing the practice or transaction
9 engaged in, or from engaging in the practice or transaction, or doing
10 any act in furtherance towards engaging in the practice or
11 transaction.

12 (4) The commissioner may impose a civil penalty not exceeding
13 \$25,000 on any person for a violation of this act. Each violation of
14 this act, including any order, rule or regulation made or issued
15 pursuant to this act, shall constitute a separate offense.
16 Additionally, each violation of this act which constitutes a knowing
17 violation shall be considered a crime of the third degree.

18 (5) The commissioner may order that any person who has been
19 found to have knowingly violated any provision of this act, or of the
20 rules and regulations issued pursuant hereto, and has thereby caused
21 financial harm to consumers, be barred from acting as a residential
22 mortgage lender, residential mortgage broker, or mortgage loan
23 originator, or a stockholder, an officer, director, partner or other
24 owner, or an employee of a licensee, or acting in any other capacity
25 pursuant to this act. Violations of this final order shall be
26 considered a crime of the third degree.

27 (6) The commissioner may order a person found to be in
28 violation of this act to make restitution to any person aggrieved by
29 the violation.

30 (7) The commissioner may order any other remedial action with
31 respect to a violation of this act as the commissioner deems
32 necessary.

33 c. The commissioner, in order to fulfill the activities
34 encompassed by the commissioner's authority set forth in this
35 section, may:

36 (1) Retain attorneys, accountants, or other professionals or
37 specialists as examiners, auditors, or investigators to conduct, or
38 assist with, any licensing activity, examination, or investigation;

39 (2) Utilize any public or privately available analytical system,
40 method, or software;

41 (3) Utilize any examination or investigative report prepared by
42 any federal banking agency or other federal agency, or any state
43 agency including another department, division, bureau, or office of
44 this State; and

45 (4) Enter into any necessary arrangement with a federal or state
46 agency, the Conference of State Bank Supervisors or its successor
47 organization, or other organization representing any federal or state
48 agency, in order to reduce the commissioner's regulatory burden by

1 sharing resources, including sharing information and materials
2 through the Nationwide Mortgage Licensing System and Registry in
3 accordance with subsection b. of section 12 of this act, and
4 following standardized or uniform methods or procedures.
5 (cf: P.L.2009, c.53, s.20)

6
7 13. Section 24 of P.L.2009, c.53 (C.17:11C-74) is amended to
8 read as follows:

9 24. a. Notwithstanding the provisions of any other law, a
10 residential mortgage lender, incidental to the origination, processing
11 and closing of any mortgage loan transaction, shall have the right to
12 charge only the following fees: (1) **credit report fee; (2) appraisal**
13 **fee; (3)** application fee; (2) origination fee; (3) lock-in fee; (4)
14 commitment fee; (5) warehouse fee; (6) discount points; and (7)
15 fees necessary to reimburse the residential mortgage lender for
16 charges imposed by third parties **;** and (7) discount points **]** which
17 shall include: (i) an appraisal fee; (ii) a credit report fee; and (iii)
18 such other third party charges as the commissioner may expressly
19 permit to lenders by rule in accordance with a procedure established
20 by rule.

21 b. Notwithstanding the provisions of any other law, a
22 residential mortgage broker, incidental to the brokering of any
23 mortgage loan transaction, shall have the right to charge only the
24 following fees: (1) application fee; **[and (2) discount points]** (2)
25 broker fee; and (3) fees necessary to reimburse the residential
26 mortgage broker or lender for charges imposed by third parties,
27 which shall include: (i) an appraisal fee; (ii) a credit report fee; and
28 (iii) such other third party charges as the commissioner may
29 expressly permit to brokers by rule or in accordance with a
30 procedure established by rule.

31 c. For purposes of this section, the following terms shall have
32 the meanings and permitted uses set forth below:

33 (1) "Application fee" means a fee imposed by a lender or a
34 broker for taking or processing a loan application, which fee shall
35 not be based upon a percentage of the principal amount of the loan
36 or the amount financed. An application fee may be charged only
37 once with respect to the same mortgage loan application and, where
38 a loan is brokered, may be charged by a residential mortgage lender
39 or a residential mortgage broker, but not by both.

40 (2) "Appraisal fee" means a fee charged to a borrower by a
41 lender or broker to recover the direct cost of the fee charged by a
42 duly credentialed real estate appraiser for an appraisal in connection
43 with a mortgage loan application. An appraisal fee may be charged
44 to a borrower by a residential mortgage lender or by a residential
45 mortgage broker, but not by both in connection with the same
46 mortgage loan application. A lender or broker may charge a
47 borrower an appraisal fee for a second appraisal provided that

1 requiring a second appraisal is in accordance with duly promulgated
2 rules.

3 (3) “Broker fee” means a fee that may be charged to a borrower
4 only by a broker and that shall be payable only at closing, which fee
5 may be based on a percentage of the principal amount of the loan or
6 a fraction thereof.

7 (4) “Commitment fee” means a fee, exclusive of third-party
8 fees, imposed by a residential mortgage lender as consideration for
9 binding the lender to make a loan in accordance with the terms and
10 conditions of its written commitment and payable on or after the
11 borrower’s acceptance of the commitment. The amount of the
12 commitment fee shall be reasonably related to its purpose and may
13 be based upon a percentage of the principal amount of the loan. A
14 commitment fee may not be charged or collected unless the
15 borrower receives a written commitment from the lender by
16 midnight of the third business day prior to the day upon which the
17 mortgage loan closing occurs and the borrower has accepted such
18 commitment.

19 (5) “Credit report fee” means a fee charged to a borrower by a
20 lender or broker in connection with a mortgage loan application to
21 recover the direct cost of the fee charged by a credit reporting
22 agency for obtaining a credit report. A credit report fee may be
23 charged to a borrower by a residential mortgage lender or by a
24 residential mortgage broker, but not by both in connection with the
25 same mortgage loan application. A lender or broker may charge a
26 borrower a credit report fee for a second credit report provided that
27 requiring a second credit report is in accordance with duly
28 promulgated rules.

29 (6) “Discount point” means a fee charged by a lender based on a
30 percentage of the principal amount of the loan and payable only at
31 the closing of the mortgage loan, which fee operates to reduce the
32 interest rate of the mortgage loan.

33 (7) “Lock-in agreement” means a written agreement between a
34 lender and a borrower whereby the lender guarantees until a
35 specified date or for a specified period of time the availability of a
36 specified rate of interest or specified formula by which the rate of
37 interest will be determined and, if applicable, the specific number of
38 discount points required to obtain such rate or formula, provided the
39 loan is approved and closed by the specified date. No lender may
40 charge a lock-in fee for a lock-in agreement executed after midnight
41 of the third business day prior to the day upon which the mortgage
42 loan closing occurs.

43 (8) “Lock-in fee” means a fee that a lender may charge to a
44 borrower for a lock-in agreement, which fee may be payable at
45 closing, but shall in no event be payable prior to the commencement
46 of the lock-in period.

47 (9) “Origination fee” means a fee that a lender may charge to a
48 borrower for originating a loan and that is based on a percentage of

1 the principal amount of the loan and is payable only at the closing
2 of the mortgage loan. An origination fee may also be referred to as
3 a “point.”

4 (10) “Warehouse fee” means a fee charged by a lender not to
5 exceed the cost associated with holding the particular mortgage loan
6 pending its assignment to a permanent investor, and payable at
7 closing. The fee shall be based on the actual holding period and
8 warehouse rate and the initial coupon rate on the mortgage loan.
9 No profit shall accrue to a lender from collection of a warehouse
10 fee.

11 d. A residential mortgage lender or residential mortgage broker
12 may use a term for a fee that is different from a term enumerated in
13 this section or in duly promulgated rules implementing the
14 provisions of this section, provided that the lender or broker can
15 document to the department that such fee fits the definition and
16 description of a fee permitted by this section or permitted in
17 accordance with duly promulgated rules implementing the
18 provisions of this section, provided that such fee functions
19 accordingly, and provided that the lender or broker has disclosed
20 such fee in writing to the borrower in conformity with applicable
21 State and federal disclosure rules.

22 e. No residential mortgage lender or residential mortgage
23 broker may charge any fee [either] not expressly authorized either
24 by this section or [authorized] by the commissioner by regulation.

25 f. In addition to the rulemaking authority granted the
26 commissioner with respect to subsections a. through e. of this
27 section, the commissioner shall be authorized to promulgate such
28 rules and forms as may reasonably be deemed necessary by the
29 commissioner to provide for the adequate disclosure to borrowers of
30 fees permitted under this section consistent with the provisions of
31 this section and with applicable provisions of federal regulations
32 and forms.

33 (cf: P.L.2009, c.53, s.24)

34

35 14. Section 1 of P.L.1991, c.18 (C.17:46B-30.1) is amended to
36 read as follows:

37 1. Except for a State or federally chartered bank, savings bank,
38 savings and loan association or its subsidiary or any officer or
39 employee of any of the foregoing, no other lending institution,
40 mortgage service, mortgage brokerage or mortgage guaranty
41 company or service company or any person licensed pursuant to
42 **[P.L.1996, c.157 (C.17:11C-1 et seq.)]** the “New Jersey Residential
43 Mortgage Lending Act,” sections 1 through 39 of P.L.2009, c.53
44 (C.17:11C-51 through C.17C:11C-89) shall be licensed as or
45 permitted to act as an insurance producer for a title insurance
46 company. No bank, trust company, bank and trust company, or
47 other lending institution, mortgage service, mortgage brokerage or
48 mortgage guaranty company, or any service company of or for any

1 lending institution shall make the selection of a particular title
2 insurance company or insurance producer a condition precedent to
3 the granting of any mortgage loan.

4 (cf: P.L.2000, c.140, s.1)

5

6 15. Section 13 of P.L.2005, c.199 (C.17:1C-45) is amended to
7 read as follows:

8 13. a. Notwithstanding any law or regulation to the contrary, a
9 regulated entity paying the amounts assessed to it in statements of
10 the assessment made pursuant to section 3 of this act shall be
11 exempt from all fees or charges imposed by the division pursuant to
12 any other provision of law or regulation, except for:

13 (1) charter fees;

14 (2) application fees for licenses;

15 (3) (Deleted by amendment, P.L.2009, c.53)

16 (4) fees for entry by a foreign depository institution whether
17 from another state of the United States or from another country into
18 New Jersey for branch, trust or other activities;

19 (5) (Deleted by amendment, P.L.2009, c.326)

20 (6) fees charged any entity not chartered, licensed or registered
21 by this State, including but not limited to activities conducted by
22 foreign banks pursuant to section 316 of P.L.1948, c.67 (C.17:9A-
23 316) or foreign associations pursuant to section 214 of P.L.1963,
24 c.144 (C.17:12B-214); **[and]**

25 (7) fees charged qualified corporations authorized pursuant to
26 section 213 of P.L.1948, c.67 (C.17:9A-213) to perform either
27 registrar and transfer agent activities or activities permitted for
28 qualified educational institutions; and

29 (8) fees charged any exempt company pursuant to subsection d.
30 of section 4 of P.L.2009, c.53 (C.17:11C-54).

31 b. Nothing in this section shall exempt a regulated entity from
32 paying any fine or penalty imposed by the commissioner for a
33 violation of a statute or regulation.

34 c. Except as provided in paragraph (1) of subsection d. of
35 section 7 of the "New Jersey Home Ownership Security Act of
36 2002," P.L.2003, c.64 (C.46:10B-28), and subsection i. of section 3
37 of the "Governmental Unit Deposit Protection Act," P.L.1970, c.236
38 (C.17:9-43), all fees, charges, fines and penalties as described in
39 subsections a. and b. of this subsection shall be remitted to the State
40 Treasurer for deposit into the General Fund, and those fees,
41 charges, fines and penalties shall not be part of the assessment
42 funding mechanism or considered in the calculation pursuant to
43 section 15 of this act.

44 (cf: P.L. 2009, c.326, s.7)

45

46 16. Section 1 of P.L.1979, c.193 (C.17:16H-1) is amended to
47 read as follows:

48 As used in this act:

- 1 a. "Financial institution" shall mean any bank, savings bank,
2 state association, credit union, **secondary residential mortgage**
3 **lender, small loan company residential mortgage broker,**
4 **consumer lender** or any other institution, corporation, partnership
5 or individual subject to the supervision, regulation or licensing by
6 the Department of Banking.
7 b. "Commissioner" shall mean the Commissioner of Banking
8 **and Insurance** of New Jersey.
9 (cf: P.L.1979, c.193, s.1)

10
11 17. (New section) The Commissioner of Banking and Insurance
12 may adopt rules and regulations, in accordance with the
13 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
14 seq.), necessary to effectuate the provisions of this act.

15
16 18. This act shall take effect on the 90th day after the date of
17 enactment, but the commissioner may take such anticipatory
18 administrative action in advance as may be necessary for the
19 implementation of this act.

20

21

22

STATEMENT

23

24 This bill revises the "New Jersey Residential Mortgage Lending
25 Act," sections 1 through 39 of P.L.2009, c.53 (C.17:11C-51 through
26 C.17C:11C-89), which governs the activities of residential
27 mortgage lenders and brokers, protects consumers seeking mortgage
28 loans, and provides the Department of Banking and Insurance with
29 broad authority to oversee the operation of the mortgage lending
30 industry. The bill also amends certain related statutes.

31 The bill adds several new definitions to the act, including:

- 32 • "Approved conditional status" means the status of the
33 license of an individual who has satisfied all conditions for
34 licensure as a mortgage loan originator or qualified
35 individual licensee except a satisfactory demonstration of his
36 or her financial responsibility but who is making a good
37 faith effort to achieve the level of financial responsibility
38 required for such licensure.
39 • "Approved inactive status" means the status of the license of
40 an individual applicant who has satisfied all conditions for
41 licensure except sponsorship by a licensed business entity or
42 the status of a licensed individual who is no longer so
43 sponsored.
44 • "Exempt company" means a person other than a bona fide
45 not for profit entity that is not subject to licensure as a
46 residential mortgage lender or a residential mortgage broker,
47 that is registered pursuant to the provisions of the bill, and

1 that employs, or will employ one or more licensed mortgage
2 loan originators.

- 3 • “Out-of-State mortgage loan originator” means an individual
4 who maintains a unique identifier through the Nationwide
5 Mortgage Licensing System and Registry and currently
6 holds a valid mortgage loan originator license issued
7 pursuant to the law of any state or other jurisdiction within
8 the United States.
- 9 • “Transitional mortgage loan originator license” or
10 “transitional license” means a license, issued to an out-of-
11 State mortgage loan originator that provides temporary
12 authority to engage in the business of mortgage loan
13 origination in this State pending the completion by the
14 transitionally licensed individual of the requirements for
15 licensure as a New Jersey mortgage loan originator as set
16 forth in the act as amended by this bill.

17 The bill provides that no person licensed as an insurance
18 producer with title insurance authority shall be licensed to engage in
19 the business of mortgage loan origination.

20 A depository institution, although otherwise exempt from the
21 bill’s requirements, may register with the department to sponsor
22 individuals licensed as mortgage loan originators, under certain
23 conditions. The bill also exempts bona fide not for profit entities
24 from the act’s requirements.

25 The bill provides additional authority to the department with
26 respect to certain aspects of business licensees. The bill requires
27 that a branch office of a business licensee shall be under the
28 supervision of a branch manager.

29 The bill provides that a determination by the National Mortgage
30 Licensing System and Registry that an applicant for a mortgage
31 loan originator license or a qualified individual license has engaged
32 in or attempted to engage in cheating while taking a qualified
33 written test or a continued education course, shall constitute
34 evidence that the applicant lacks the character and fitness necessary
35 to qualify for licensure.

36 The bill revises the types of fees that a residential mortgage
37 lender has the right to charge, so that only the following fees, as
38 defined in the bill, can be charged: (1) application fee; (2)
39 origination fee; (3) lock-in fee; (4) commitment fee; (5) warehouse
40 fee; (6) discount points; and (7) fees necessary to reimburse the
41 lender for charges imposed by third parties. The bill allows a
42 residential mortgage broker to charge a different set of fees,
43 incidental to the brokering of any mortgage loan transaction.

44 Although entities regulated by the Division of Banking in the
45 Department of Banking and Insurance that pay a special purpose
46 assessment to the division are typically exempt from most fees
47 imposed by the division, the bill provides that these entities are not

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- 1 exempt from fees charged any exempt company pursuant to the
- 2 provisions of the bill.
- 3 The bill also makes some technical changes.