

[First Reprint]

ASSEMBLY, No. 2035

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

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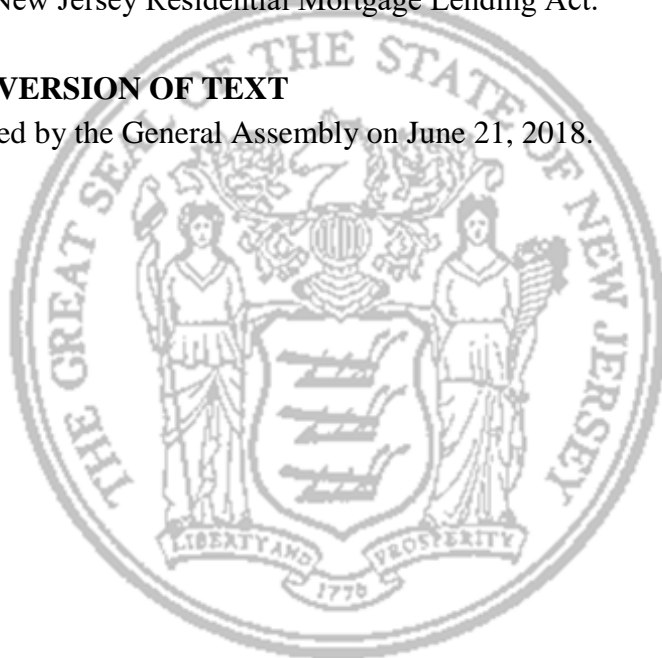
Assemblywoman Murphy, Assemblymen Rooney and Wimberly

SYNOPSIS

Revises “New Jersey Residential Mortgage Lending Act.”

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 21, 2018.



(Sponsorship Updated As Of: 6/26/2018)

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted June 21, 2018.

1 and Registry.

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

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

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

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

37 "Controlling interest" means ownership, control or interest of
38 25% or more of the business licensee or applicant.

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

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

46 "Depository institution" means "depository institution" as
47 defined in section 3 of the "Federal Deposit Insurance Act,"
48 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
5 agency or a housing finance agency and who acts as a mortgage
6 loan originator only pursuant to his or her official duties as an
7 employee of the federal, state, or local government agency, or of a
8 housing finance agency. The agency itself is not considered a
9 mortgage loan originator under the provisions of P.L.2009, c.53
10 (C.17:11C-51 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 "Nationwide 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 ¹and was
39 validly registered as a mortgage loan originator with a depository
40 institution employer for at least the one-year period prior to
41 applying for licensure under the "New Jersey Residential Mortgage
42 Lending Act," P.L.2009, c.53 (C.17:11C-51 et seq)¹.

43 "Residential mortgage broker" means any person, not exempt
44 under section 5 of this act and licensed pursuant to the provisions of
45 this act, and any person who should be licensed pursuant to the
46 provisions of this act, who for compensation or gain, or in the
47 expectation of compensation or gain, either directly or indirectly
48 takes a residential mortgage loan application for others, or

1 negotiates, places or sells for others, or offers to take an application
2 for, negotiate, place or sell, residential mortgage loans in the
3 primary market for others. **【The term "residential mortgage broker"**
4 **also means an individual who is a qualified individual licensee for a**
5 **residential mortgage broker.】**

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

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

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

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

1 executed in accordance with the provisions of the "Home Repair
2 Financing Act," P.L.1960, c.41 (C.17:16C-62 et seq.); or (3) a loan
3 which is the result of the private sale of a dwelling, if title to the
4 dwelling is in the name of the seller and the seller has resided in
5 that dwelling for at least one year, if the buyer is purchasing that
6 dwelling for his own residence and, if the buyer, as part of the
7 purchase price, executes a secondary mortgage in favor of the
8 seller】.

9 “Sponsor” means a business licensee that employs a qualified
10 individual licensee, a mortgage loan originator, or an applicant for a
11 transitional mortgage loan originator license.

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

17 “Transitional mortgage loan originator license” or “transitional
18 license” means a license, issued to an out-of-State mortgage loan
19 originator ¹or registered mortgage loan originator¹ that provides
20 temporary authority to engage in the business of mortgage loan
21 origination in this State pending the completion by the transitionally
22 licensed individual of the requirements for licensure as a New
23 Jersey mortgage loan originator as set forth in section 7 of
24 P.L.2009, c.53 (C.17:11C-57). A transitional mortgage loan
25 originator license shall be valid for a term of no longer than ¹【90】
26 120¹ days.

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

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

33
34 2. Section 4 of P.L.2009, c.53 (C.17:11C-54) is amended to
35 read as follows:

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

43 a. For residential mortgage lenders and residential mortgage
44 brokers, as business licensees:

45 (1) No person shall act as a residential mortgage lender or
46 broker without first obtaining a license under this act, except that a
47 person licensed as a residential mortgage lender may act as a
48 broker, if proper disclosure is made. The department shall issue

1 licenses which specify whether a business licensee is licensed as a
2 residential mortgage lender or broker.

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

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

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

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

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

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

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

6 c. For mortgage loan originators:

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

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

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

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

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

40 d. For exempt companies:

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

- 1 loan origination solely by virtue of its performance of loan
2 processing or underwriting functions may qualify for registration as
3 an exempt company.
- 4 (2) An exempt company shall register with the commissioner
5 and with the Nationwide Mortgage Licensing System and Registry.
6 An applicant for registration or for renewal of registration as an
7 exempt company shall:
- 8 (a) Submit a completed application to the commissioner on the
9 form, in the manner, and with the appropriate evidence in support of
10 the application as may be prescribed by the commissioner;
- 11 (b) Pay to the commissioner at the time of application a
12 nonrefundable application fee not to exceed \$500 as established by
13 the commissioner by regulation;
- 14 (c) Pay to the Nationwide Mortgage Licensing System and
15 Registry any fees required by that system and registry, or any fees
16 which, by arrangement of the commissioner, are payable to the
17 Nationwide Mortgage Licensing System and Registry on behalf of
18 the commissioner; and
- 19 (d) Obtain a blanket bond in an amount and form prescribed by
20 the commissioner, but not less than \$25,000. The bond shall be
21 obtained from a surety company authorized by law to do business in
22 this State. The exempt company shall procure the bond to cover its
23 mortgage loan origination related activities. The bond shall run to
24 the State for the benefit of any person injured by the wrongful act,
25 default, fraud or misrepresentation of any person covered by the
26 bond. No bond shall comply with the requirements of this
27 subparagraph unless the bond contains a provision that it shall not
28 be canceled for any cause unless notice of intention to cancel is
29 filed in the department at least 30 days before the day upon which
30 cancellation shall take effect.
- 31 (3) A registered exempt company shall:
- 32 (a) Respond in a timely manner to any request of the
33 commissioner for the production of and access to books, records,
34 accounts, documents or other information relative to its operations;
- 35 (b) Submit to the Nationwide Mortgage Licensing System and
36 Registry a mortgage call report of conditions, in the form and
37 manner, and with such information, at any time as may be required
38 by the nationwide system and registry, and any other report to, or
39 through, the nationwide system and registry pursuant to an
40 arrangement for reporting and sharing information;
- 41 (c) Provide written notice to the commissioner within 10 days of
42 the occurrence of any event that would cause the exempt company
43 to no longer qualify for registration as such under the terms of this
44 subsection d. and so notify in writing all licensed mortgage loan
45 originators employed or retained by the exempt company; and
- 46 (d) Employ at least one individual who is licensed as a mortgage
47 loan originator who shall not engage in the origination of mortgage
48 loans under P.L. , c. (pending before the Legislature as this bill)

1 and shall be assigned supervision and instruction duties with respect
2 to individuals employed as loan processors or loan underwriters as
3 defined in section 3 of P.L.2009, c.53 (C.17:11C-53).

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

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

8 5. The requirements of this act shall not apply to:

9 a. Depository institutions; but subsidiaries and service
10 corporations of these institutions shall not be exempt. A depository
11 institution may register with the department for the purpose of
12 sponsoring individuals, licensed as mortgage loan originators
13 subject to subparagraph (b) of paragraph (1) of subsection c. of
14 section 4 of P.L.2009, c.53 (C.17:11C-54), provided that such
15 registered entity obtains and maintains bond coverage for mortgage
16 loan originators consistent with section 13 of P.L.2009, c.53
17 (C.17:11C-63). A depository institution registered with the
18 department in accordance with this subsection a. shall otherwise
19 remain exempt from the licensing requirements of P.L.2009, c.53
20 (C.17:11C-51 et seq.).

21 b. A registered mortgage loan originator that is registered
22 under the federal "Secure and Fair Enforcement for Mortgage
23 Licensing Act of 2008," title V of Pub.L.110-289 (12 U.S.C. s.5101
24 et seq.).

25 c. A licensed attorney who negotiates the terms of a residential
26 mortgage loan on behalf of a client as an ancillary matter to the
27 attorney's representation of the client, unless the attorney is
28 compensated by a residential mortgage lender, residential mortgage
29 broker, or mortgage loan originator.

30 d. A person licensed as a real estate broker or salesperson
31 pursuant to R.S.45:15-1 et seq., and not engaged in the business of a
32 residential mortgage lender or residential mortgage broker. Any
33 person holding a license under this act as a residential mortgage
34 lender or broker shall be exempt from the licensing and other
35 requirements of R.S.45:15-1 et seq. in the performance of those
36 functions authorized by this act.

37 e. Any employer, other than a residential mortgage lender, who
38 provides residential mortgage loans to his employees as a benefit of
39 employment which are at an interest rate which is not in excess of
40 the usury rate in existence at the time the loan is made, as
41 established in accordance with the law of this State, and on which
42 the borrower has not agreed to pay, directly or indirectly, any
43 charge, cost, expense or any fee whatsoever, other than that interest.

44 f. The State of New Jersey or a municipality, or any agency or
45 instrumentality thereof, which, in accordance with a housing
46 element that has received substantive certification from the Council
47 on Affordable Housing pursuant to the "Fair Housing Act,"
48 P.L.1985, c.222 (C.52:27D-301 et al.), or in fulfillment of a

1 regional contribution agreement with a municipality that has
2 received a certification, employs or proposes to employ municipally
3 generated funds, funds obtained through any State or federal
4 subsidy, or funds acquired by the municipality under a regional
5 contribution agreement, to finance the provision of affordable
6 housing by extending loans or advances, the repayment of which is
7 secured by a lien, subordinate to any prior lien, upon the property
8 that is to be rehabilitated.

9 g. Any individual who offers or negotiates terms of a
10 residential mortgage loan:

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

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

14 h. Any person who, during a calendar year takes three or fewer
15 residential mortgage loan applications or offers or negotiates the
16 terms of three or fewer residential mortgage loans or makes three or
17 fewer residential mortgage loans related to manufactured housing
18 structures which are:

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

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

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

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

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

32
33 4. Section 6 of P.L.2009, c.53 (C.17:11C-56) is amended to
34 read as follows:

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

43 a. A completed application for a new license or for a renewal
44 of a license, submitted to the commissioner on the form, in the
45 manner, and with appropriate evidence in support of the application,
46 as required by this act and as may be prescribed by the
47 commissioner.

1 b. The submission to the commissioner of the name, address,
2 fingerprints and written consent for a criminal history record
3 background check to be performed on any officer, director, partner
4 or owner of a controlling interest of the person seeking licensure.
5 The commissioner is authorized to exchange fingerprint data with
6 and receive criminal history record information from the State
7 Bureau of Identification in the Division of State Police and the
8 Federal Bureau of Investigation consistent with applicable State and
9 federal laws, rules and regulations, for the purposes of facilitating
10 determinations concerning licensure eligibility for the person, based
11 upon any findings related to an officer, director, partner or owner.
12 The applicant shall bear the cost for the criminal history record
13 background check, including all costs of administering and
14 processing the check. The Division of State Police shall promptly
15 notify the commissioner in the event an officer, director, partner or
16 owner of the person, who was the subject of a criminal history
17 record background check pursuant to this section, is arrested for a
18 crime or offense in this State after the date the background check
19 was performed, whether the person is a prospective new licensee, or
20 subsequently, a current license holder.

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

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

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

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

37 g. The payment of any required fees under this act, as
38 established by the commissioner by regulation and payable to the
39 commissioner or, by arrangement of the commissioner, to the
40 Nationwide Mortgage Licensing System and Registry on behalf of
41 the commissioner, or as set forth by the nationwide system and
42 registry and payable to that nationwide system and registry.

43 h. A person whose application is deemed abandoned shall be
44 required to submit a new application in order to obtain licensure as
45 a business licensee. The commissioner may adopt rules addressing
46 notices of abandonment and the subsequent submission of new
47 applications.

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

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

3 7. Beginning no later than July 31, 2010, or a later date
4 approved by the Secretary of the United States Department of
5 Housing and Urban Development pursuant to the provisions of
6 section 1508 of the federal "Secure and Fair Enforcement for
7 Mortgage Licensing Act of 2008," Pub.L.110-289 (12 U.S.C.
8 s.5107), the commissioner shall begin issuing licenses for
9 individual licensees under this act, utilizing the Nationwide
10 Mortgage Licensing System and Registry, or other entity designated
11 by that nationwide system and registry, as required or permitted by
12 the federal "Secure and Fair Enforcement for Mortgage Licensing
13 Act of 2008" and as otherwise deemed appropriate by the
14 commissioner to carry out the provisions of this act, if the following
15 conditions are met:

16 a. For mortgage loan originators and transitional mortgage loan
17 originators:

18 (1) A completed application for a new license or for a renewal
19 of a license, submitted to the commissioner on the form, in the
20 manner, and with appropriate evidence in support of the application,
21 as required by this act and as may be prescribed by the
22 commissioner.

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

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

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

5 (ii) at any time preceding the filing of the application, if the
6 felony involved an act of fraud, dishonesty, a breach of trust, or
7 money laundering, except that a conviction under this sub-
8 subparagraph which is pardoned or expunged shall not be
9 considered disqualifying information; and

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

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

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

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

42 (a) current outstanding judgments, except judgments solely as a
43 result of medical expenses;

44 (b) current outstanding tax liens or other government liens and
45 filings;

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

- 1 (d) a pattern of seriously delinquent accounts during the three-
2 year period preceding the filing of the application.
- 3 (4) A demonstration of employment by one, and not more than
4 one, business licensee as required by paragraph (1) of subsection c.
5 of section 4 of this act.
- 6 (5) The completion of any pre-licensing education requirements
7 as set forth in section 9 of this act.
- 8 (6) The successful passage of a qualified written test based upon
9 the testing requirements as set forth in section 10 of this act.
- 10 (7) The completion of any continuing education requirements, if
11 applicable, as set forth in section 11 of this act.
- 12 (8) A registration with the Nationwide Mortgage Licensing
13 System and Registry as required by section 12 of this act.
- 14 (9) A demonstration of coverage by a surety bond as required by
15 section 13 of this act.
- 16 (10)The payment of any required fees under this act, as
17 established by the commissioner by regulation and payable to the
18 commissioner or, by arrangement of the commissioner, to the
19 Nationwide Mortgage Licensing System and Registry on behalf of
20 the commissioner, or as set forth by the nationwide system and
21 registry and payable to that nationwide system and registry.
- 22 b. For **residential mortgage lenders and residential mortgage**
23 **brokers, as** qualified individual licensees:
 - 24 (1) A completed application for a new license or for a renewal
25 of a license as a qualified licensed individual for a residential
26 mortgage lender or broker, submitted to the commissioner on the
27 form, in the manner, and with appropriate evidence in support of the
28 application, whereby the applicant follows the licensing procedure
29 and meets the licensing criteria applicable to a mortgage loan
30 originator, as set forth in subsection a. of this section, except that
31 the applicant shall not request or be issued a separate license as a
32 mortgage loan originator under that subsection.
 - 33 (2) A determination with respect to any stricter or additional
34 licensing requirements that the commissioner may, by regulation,
35 establish.
 - 36 (3) The payment of any required fees under this act, as
37 established by the commissioner by regulation and payable to the
38 commissioner or, by arrangement of the commissioner, to the
39 Nationwide Mortgage Licensing System and Registry on behalf of
40 the commissioner, or as set forth by the nationwide system and
41 registry and payable to that nationwide system and registry.
- 42 c. For individuals, the following provisions shall also apply:
 - 43 (1) An applicant for a mortgage loan originator license who has
44 met all the requirements for licensure except the demonstration of
45 employment referenced in paragraph (4) of subsection a. of this
46 section shall be considered to be in approved inactive status and
47 designated as such in the Nationwide Mortgage Licensing System

1 and Registry and may remain in that status for as long as the
2 applicant renews the approved inactive status annually and meets
3 the continuing education requirements as required by section 11 of
4 P.L.2009, c.53 (C.17:11C-61).

5 (2) An applicant for licensure as an individual licensee who has
6 unresolved credit issues but who demonstrates to the satisfaction of
7 the commissioner a good faith effort to achieve the level of
8 financial responsibility required by paragraph (3) of subsection a. of
9 section 7 of P.L.2009, c.53 (C.17:11C-57) may be deemed in
10 approved conditional status and be designated as such in the
11 Nationwide Mortgage Licensing System and Registry. The
12 applicant may remain in approved conditional status so long as the
13 applicant continues to demonstrate substantial progress toward the
14 achievement of financial responsibility, renews the applicant's
15 mortgage loan originator license or qualified individual license
16 annually, and meets the continuing education requirements
17 established by section 11 of P.L.2009, c.53 (C.17:11C-61). Upon
18 demonstration to the satisfaction of the commissioner that the
19 applicant has achieved financial responsibility, and predicated on
20 the applicant continuing to fulfill all other applicable requirements
21 for such status, the license status of the individual shall be revised
22 to approved. While the applicant's license is in approved
23 conditional status, an individual may engage in activity as a
24 mortgage loan originator or a qualified individual licensee in
25 accordance with the provisions of P.L.2009, c.53 (C.17:11C-51 et
26 seq.) and all applicable rules.

27 (3) For applicants as individual licensees, an offense that was
28 the subject of an order granting the individual admission to the New
29 Jersey Pre-trial Intervention Program pursuant to the provisions of
30 N.J.S. 2C:43-12 through 22, and such offense having been
31 dismissed with prejudice in accordance with subsection d. of N.J.S.
32 2C:43-13, or the applicant having been admitted to a functionally
33 equivalent program of another state or of the United States whereby
34 an offense was dismissed or a felony conviction was avoided or
35 eliminated from the record upon the applicant having successfully
36 completed the program as established by the submission of
37 confirming documentation, shall not be considered disqualifying
38 information for purposes of subsection a. of this section.

39 (4) The commissioner may deem abandoned an application for
40 licensure as a mortgage loan originator, transitional mortgage loan
41 originator, or a qualified individual licensee if the application fails
42 to meet all of the requirements of a complete application within 90
43 days of the date on which the application was initially submitted. A
44 person whose application is deemed abandoned shall be required to
45 submit a new application in order to pursue licensure as a mortgage
46 loan originator, transitional mortgage loan originator, or a qualified
47 individual licensee. The commissioner may adopt rules addressing

1 notices of abandonment and the subsequent submission of new
2 applications.

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

4
5 6. Section 8 of P.L.2009, c.53 (C.17:11C-58) is amended to
6 read as follows:

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

10 (1) Shall pay to the commissioner at the time of the application
11 a nonrefundable application fee, as established by the commissioner
12 through regulation, not to exceed \$2,800. The nonrefundable
13 application fee is required for each residential mortgage lender or
14 broker license issued, including for each branch office license of a
15 business licensee.

16 (2) Shall additionally pay to the Nationwide Mortgage
17 Licensing System and Registry any required fees as set forth by that
18 nationwide system and registry, or any commissioner's fees, which
19 by arrangement of the commissioner, are payable to the nationwide
20 system and registry on behalf of the commissioner.

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

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

27 (2) Shall additionally pay to the Nationwide Mortgage
28 Licensing System and Registry any required fees as set forth by that
29 nationwide system and registry, or any commissioner's fees, which
30 by arrangement of the commissioner, are payable to the nationwide
31 system and registry on behalf of the commissioner.

32 c. An applicant for a new license or for a renewal of a license
33 to be a mortgage loan originator or transitional mortgage loan
34 originator:

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

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

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

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

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

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

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

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

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

(3) ethics.

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

d. An applicant may take the qualified written test up to three consecutive times in order to successfully pass and qualify for licensure. The applicant shall not take a subsequent, consecutive test until at least 30 calendar days next following the applicant's preceding test date. If the applicant fails to pass the qualified written test after three consecutive attempts, the applicant shall not

1 be permitted to retake the test for a period of at least six months
2 from the applicant's last preceding test date.

3 e. A determination by the National Mortgage Licensing System
4 and Registry that an applicant has engaged in or attempted to
5 engage in cheating while taking a qualified written test shall
6 constitute evidence that the applicant lacks the character and fitness
7 necessary to qualify for licensure pursuant to section 7 of P.L.2009,
8 c.53 (C.17:11C-57) and may be grounds for action on an existing
9 license pursuant to section 20 of P.L.2009, c.53 (C.17:11C-70).
10 (cf: P.L.2009, c.53, s.10)

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

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

22 (1) Pursuant to the reasonable standards established by the
23 nationwide system and registry, an approved continuing educational
24 course provider may include the employer or affiliated business
25 licensee of the individual licensee, or an entity which is affiliated
26 with the individual licensee by an agency contract, or any
27 subsidiary or affiliate of the individual licensee's employer,
28 affiliated business licensee, or affiliated entity.

29 (2) Pursuant to the reasonable standards established by the
30 nationwide system and registry, an approved continuing educational
31 course may be offered at any location and by any means, including
32 live classroom instruction, prepared group or individual
33 coursework, or the Internet.

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

36 (1) 3 hours of instruction on federal statutes and regulations;
37 (2) 2 hours of instruction on ethics, including instruction on
38 fraud, consumer protection, and fair **[licensing]** lending issues;
39 **[and]**

40 (3) 2 hours of training related to lending standards for the
41 nontraditional mortgage product marketplace; and

42 (4) 2 hours of instruction related to New Jersey laws and
43 regulations on residential mortgage lending.

44 c. (1) Except as set forth by the commissioner in regulations
45 consistent with this act and the provisions of the federal "Secure
46 and Fair Enforcement for Mortgage Licensing Act of 2008," title V
47 of Pub.L.110-289 (12 U.S.C. s.5101 et seq.), a licensed mortgage
48 loan originator, or a licensed residential mortgage lender or

1 residential mortgage broker as a qualified individual licensee, may
2 only receive credit for an approved continuing educational course:

3 (a) in the calendar year in which the licensee takes the course;
4 and

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

7 (2) A licensed mortgage loan originator~~】, residential mortgage~~
8 ~~lender or broker】~~ or qualified individual licensee, who is an
9 approved instructor of an approved continuing educational course,
10 may receive credit towards the individual licensee's own continuing
11 educational requirements set forth in this section at the rate of two
12 hours of credit for every one hour of the approved continuing
13 educational course taught.

14 (3) If a licensed mortgage loan originator~~】, residential mortgage~~
15 ~~lender or broker】~~ or qualified individual licensee subsequently
16 becomes unlicensed, the individual licensee shall complete the
17 continuing educational requirements set forth in this section for the
18 last calendar year in which the individual was licensed as a
19 requirement for a license reinstatement.

20 d. Any continuing educational requirements of another state,
21 reviewed and approved by the Nationwide Mortgage Licensing
22 System and Registry, and completed by an applicant for a license
23 renewal in that state pursuant to the provisions of the federal
24 "Secure and Fair Enforcement for Mortgage Licensing Act of
25 2008," title V of Pub.L.110-289 (12 U.S.C. s.5101 et seq.), shall be
26 accepted by the commissioner from an applicant as credit towards
27 completion of the reviewed and approved continuing educational
28 requirements of this section for a license renewal in this State.

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

37
38 9. Section 12 of P.L.2009, c.53 (C.17:11C-62) is amended to
39 read as follows:

40 12. a. An applicant for an initial license or for a renewal of a
41 license as a mortgage loan originator, transitional mortgage loan
42 originator, or a qualified individual licensee shall, as a licensing
43 requirement, be registered and assigned a unique identifier through
44 the Nationwide Mortgage Licensing System and Registry.

45 b. (1) In order to ensure compliance by an applicant with this
46 registration requirement, the commissioner shall utilize, as required
47 or permitted by the "Secure and Fair Enforcement for Mortgage
48 Licensing Act of 2008," title V of Pub.L.110-289 (12 U.S.C. s.5101

1 et seq.) and as otherwise deemed appropriate by the commissioner,
2 the Nationwide Mortgage Licensing System and Registry.

3 (2) The commissioner is authorized, through regulation, to
4 coordinate the registration of an applicant through the nationwide
5 system and registry with the State licensing of the applicant under
6 this act, on any matters deemed necessary by the commissioner for
7 participation in that nationwide system and registry, including but
8 not limited to:

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

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

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

18 (d) payment of any required fees, as established by the
19 commissioner and payable to the commissioner or to the nationwide
20 system and registry on behalf of the commissioner, and as set forth
21 by the nationwide system and registry and payable to that
22 nationwide system and registry.

23 (3) The commissioner shall, in order to participate in the
24 nationwide system and registry, regularly report violations of this
25 act by an applicant or licensee, as well as information concerning
26 enforcement actions on those violations, along with any other
27 relevant information, to the nationwide system and registry, in a
28 manner and frequency established by that nationwide system and
29 registry.

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

38 (5) Except as provided under section 1512 of the federal "Secure
39 and Fair Enforcement for Mortgage Licensing Act of 2008,"
40 Pub.L.110-289 (12 U.S.C. s.5111), any requirement under federal
41 or State law, including P.L.1963, c.73 (C.47:1A-1 et seq.),
42 regarding the privacy or confidentiality of any information or
43 material provided to, received from, or collected by the nationwide
44 system and registry, and any privilege arising under federal or State
45 law, including any rules of court, with respect to the information or
46 material, shall continue to apply after the information or material
47 has been provided to, received from, or collected by the nationwide
48 system and registry. The privacy, confidentiality, or privilege shall

1 also continue to apply with respect to the sharing of the information
2 or material, pursuant to procedures set forth by the nationwide
3 system and registry, with any federal banking agency or other
4 federal agency with mortgage industry oversight authority, or any
5 state agency with mortgage industry oversight authority. This
6 paragraph shall not apply to any information or material relating to
7 the employment history of, and publicly adjudicated disciplinary or
8 enforcement actions against, an applicant or licensee that is
9 included in the nationwide system and registry for access by the
10 public, based upon reasonable standards established by the
11 nationwide system and registry.

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

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

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

29 (ii) subpoena or discovery, or admission into evidence, in any
30 private civil action or administrative process, except with respect to
31 any privacy, confidentiality, or privilege held by the nationwide
32 system and registry connected to an applicant's or licensee's
33 information or material that the applicant or licensee gives
34 permission to waive, in whole or in part.

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

36

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

39 15. a. A residential mortgage lender or residential mortgage
40 broker that is a business licensee may maintain a branch office or
41 offices. The business licensee shall obtain a license for each branch
42 office in this State and each branch office outside this State from
43 which the licensee has direct contact with New Jersey consumers
44 regarding origination or brokering.

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

47 (1) The business licensee has submitted a completed branch
48 office application form, which includes any information required by

1 the commissioner concerning the branch office, and an application
2 fee pursuant to section 8 of this act;

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

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

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

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

19

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

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

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

40 (3) A licensee or any other person shall not photocopy or
41 otherwise reproduce the license except for legitimate business
42 purposes or as required or permitted by the commissioner by
43 regulation.

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

47 (5) No business licensee shall change **[the]** its name or the
48 address of the business licensee's place or places of business

1 without notice to the commissioner in accordance with regulations
2 as prescribed by the commissioner.

3 b. (1) The license for a mortgage loan originator shall state the
4 name of the originator's **【employing business licensee】** licensed or
5 registered employer and **【the licensee's place or places of business,**
6 **as applicable, and】** shall contain **【any】** such other information as
7 the commissioner **【may see fit to require】** deems necessary.

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

10 (3) A licensee or any other person shall not photocopy or
11 otherwise reproduce the license except for legitimate business
12 purposes or as required or permitted by the commissioner by
13 regulation.

14 (4) No licensee shall change the name or address of the
15 licensee's place or places of business without notice to the
16 commissioner, in accordance with regulations as prescribed by the
17 commissioner.

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

19
20 12. Section 20 of P.L.2009, c.53 (C.17:11C-70) is amended to
21 read as follows:

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

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

30 (2) The commissioner may refuse to issue a license if an
31 applicant fails to meet the requirements for licensure set forth in
32 sections 6 through 15 of P.L.2009, c.53 (C.17:11C-56 through
33 17:11C-65), as applicable.

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

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

46 (b) Failed at any time to meet the requirements for licensure set
47 forth in sections 6 through 15 of this act, as applicable, or withheld

1 information or made a material misstatement in the application for
2 the license;

3 (c) Been convicted of an offense involving breach of trust,
4 moral turpitude or fraudulent or dishonest dealing, including but not
5 limited to the disqualifying criminal activities stated in paragraph
6 (2) of subsection a. of section 7 of this act, if applicable, or had a
7 final judgment entered against the person in a civil or administrative
8 action upon grounds of fraud, misrepresentation, deceit, or failure to
9 maintain books, accounts, records and other documents as required
10 by section 21 of this act;

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

13 (e) Become insolvent;

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

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

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

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

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

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

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

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

18 (4) The commissioner may impose a civil penalty not exceeding
19 \$25,000 on any person for a violation of this act. Each violation of
20 this act, including any order, rule or regulation made or issued
21 pursuant to this act, shall constitute a separate offense.
22 Additionally, each violation of this act which constitutes a knowing
23 violation shall be considered a crime of the third degree.

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

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

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

39 c. The commissioner, in order to fulfill the activities
40 encompassed by the commissioner's authority set forth in this
41 section, may:

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

45 (2) Utilize any public or privately available analytical system,
46 method, or software;

47 (3) Utilize any examination or investigative report prepared by
48 any federal banking agency or other federal agency, or any state

1 agency including another department, division, bureau, or office of
2 this State; and

3 (4) Enter into any necessary arrangement with a federal or state
4 agency, the Conference of State Bank Supervisors or its successor
5 organization, or other organization representing any federal or state
6 agency, in order to reduce the commissioner's regulatory burden by
7 sharing resources, including sharing information and materials
8 through the Nationwide Mortgage Licensing System and Registry in
9 accordance with subsection b. of section 12 of this act, and
10 following standardized or uniform methods or procedures.

11 (cf: P.L.2009, c.53, s.20)

12
13 13. Section 24 of P.L.2009, c.53 (C.17:11C-74) is amended to
14 read as follows:

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

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

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

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

46 (2) "Appraisal fee" means a fee charged to a borrower by a
47 lender or broker to recover the direct cost of the fee charged by a
48 duly credentialed real estate appraiser for an appraisal in connection

1 with a mortgage loan application. An appraisal fee may be charged
2 to a borrower by a residential mortgage lender or by a residential
3 mortgage broker, but not by both in connection with the same
4 mortgage loan application. A lender or broker may charge a
5 borrower an appraisal fee for a second appraisal provided that
6 requiring a second appraisal is in accordance with duly promulgated
7 rules.

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

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

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

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

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

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

5 (9) “Origination fee” means a fee that a lender may charge to a
6 borrower for originating a loan and that is based on a percentage of
7 the principal amount of the loan and is payable only at the closing
8 of the mortgage loan. An origination fee may also be referred to as
9 a “point.”

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

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

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

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

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

40
41 14. Section 1 of P.L.1991, c.18 (C.17:46B-30.1) is amended to
42 read as follows:

43 1. Except for a State or federally chartered bank, savings bank,
44 savings and loan association or its subsidiary or any officer or
45 employee of any of the foregoing, no other lending institution,
46 mortgage service, mortgage brokerage or mortgage guaranty
47 company or service company or any person licensed pursuant to
48 **[P.L.1996, c.157 (C.17:11C-1 et seq.)]** the “New Jersey Residential

1 Mortgage Lending Act,” sections 1 through 39 of P.L.2009, c.53
2 (C.17:11C-51 through C.17C:11C-89) shall be licensed as or
3 permitted to act as an insurance producer for a title insurance
4 company. No bank, trust company, bank and trust company, or
5 other lending institution, mortgage service, mortgage brokerage or
6 mortgage guaranty company, or any service company of or for any
7 lending institution shall make the selection of a particular title
8 insurance company or insurance producer a condition precedent to
9 the granting of any mortgage loan.
10 (cf: P.L.2000, c.140, s.1)

11

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

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

19 (1) charter fees;

20 (2) application fees for licenses;

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

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

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

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

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

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

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

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

1 funding mechanism or considered in the calculation pursuant to
2 section 15 of this act.

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

4

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

7 As used in this act:

8 a. "Financial institution" shall mean any bank, savings bank,
9 state association, credit union, **【secondary】** residential mortgage
10 lender, 【small loan company】 residential mortgage broker,
11 consumer lender or any other institution, corporation, partnership
12 or individual subject to the supervision, regulation or licensing by
13 the Department of Banking.

14 b. "Commissioner" shall mean the Commissioner of Banking
15 and Insurance of New Jersey.

16 (cf: P.L.1979, c.193, s.1)

17

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

22

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