

P.L. 2018, CHAPTER 108, *approved August 24, 2018*  
Assembly, No. 2035 (*First Reprint*)

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.

**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:

<sup>1</sup>Assembly floor amendments adopted June 21, 2018.

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

4 "Branch manager" means an employee of a licensed business  
5 entity with management responsibilities over a branch and who is  
6 identified as such with the Nationwide Mortgage Licensing System  
7 and Registry.

8 "Business licensee" means a corporation, association, joint  
9 venture, partnership, limited liability company, limited liability  
10 partnership, sole proprietorship, or any other legal entity, however  
11 organized, permitted under the laws of this State, that is licensed as  
12 a residential mortgage lender or residential mortgage broker, or that  
13 should be so licensed.

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

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

41 "Commissioner" means the Commissioner of Banking and  
42 Insurance.

43 "Controlling interest" means ownership, control or interest of  
44 25% or more of the business licensee or applicant.

45 "Correspondent mortgage lender" means a residential mortgage  
46 lender who: (1) in the regular course of business, does not hold any  
47 mortgage loans in its portfolio, or service mortgage loans, for more  
48 than 90 days; and (2) has shown to the department's satisfaction an

1 ability to fund mortgage loans through warehouse agreements, table  
2 funding agreements or otherwise.

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

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

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

13 "Expungement" means, with respect to a record of criminal  
14 conviction entered in this State, an order issued pursuant to N.J.S.  
15 2C:52-1 et seq. With respect to criminal convictions entered in  
16 another state, that other state's definition of expungement or the  
17 functional equivalent of expungement will apply.

18 "Federal banking agency" means the Board of Governors of the  
19 Federal Reserve System, the Comptroller of the Currency, [the  
20 Director of the Office of Thrift Supervision,] the National Credit  
21 Union Administration, or the Federal Deposit Insurance  
22 Corporation, or any of their successor agencies.

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

28 "Individual" means a natural person.

29 "Individual licensee" means a natural person licensed as a  
30 qualified individual licensee for a residential mortgage lender or  
31 residential mortgage broker, or a mortgage loan originator.

32 "Insurer" means an entity authorized to transact the business of  
33 insurance in this State pursuant to subtitle 3 of Title 17 of the  
34 Revised Statutes or subtitle 3 of Title 17B of the New Jersey  
35 Statutes.

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

38 "Loan processor" or "loan underwriter" means an individual who  
39 performs clerical or support duties as an employee, at the direction  
40 of and subject to the supervision and instruction of a licensee under  
41 this act [or a person exempt from licensure].

42 "Mortgage loan originator" means any individual, not exempt  
43 under section 5 of this act and licensed pursuant to the provisions of  
44 this act, and any individual who should be licensed pursuant to the  
45 provisions of this act, who for compensation or gain, or in the  
46 expectation of compensation or gain, either directly or indirectly  
47 takes a residential mortgage loan application, or offers or negotiates

1 terms of a residential mortgage loan. However, the term "mortgage  
2 loan originator" does not mean an individual:

3 **[(1)]** a. who is a qualified individual licensee for a residential  
4 mortgage lender or residential mortgage broker;

5 **[(2)]** b. engaged solely as a loan processor or underwriter,  
6 except as provided in section 4 of this act; **[or]**

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

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

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

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

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

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

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

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

28 and

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

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

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

44 "Open-end loan" means a secondary mortgage loan made by a  
45 residential mortgage lender pursuant to a written agreement with the  
46 borrower whereby:

47 (1) The lender may permit the borrower to obtain advances of  
48 money from the lender from time to time or the lender may advance

1 money on behalf of the borrower from time to time as directed by  
2 the borrower;

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

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

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

12 “Out-of-State mortgage loan originator” means an individual  
13 who maintains a unique identifier through the Nationwide Mortgage  
14 Licensing System and Registry and currently holds a valid  
15 mortgage loan originator license issued pursuant to the law of any  
16 state or other jurisdiction within the United States.

17 "Person" means an individual, sole proprietor, association, joint  
18 venture, partnership, limited partnership association, limited  
19 liability company, corporation, trust, or any other group of  
20 individuals however organized.

21 "Primary market" means the market wherein residential  
22 mortgage loans are originated between a residential mortgage lender  
23 and a borrower, whether or not through a residential mortgage  
24 broker or other conduit, and shall not include the sale or acquisition  
25 of a residential mortgage loan after the mortgage loan is closed.

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

33 "Registered mortgage loan originator" means any individual  
34 who:

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

36 (a) a depository institution;

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

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

42 (2) is registered with, and maintains a unique identifier through,  
43 the Nationwide Mortgage Licensing System and Registry <sup>1</sup>and was  
44 validly registered as a mortgage loan originator with a depository  
45 institution employer for at least the one-year period prior to  
46 applying for licensure under the “New Jersey Residential Mortgage  
47 Lending Act,” P.L.2009, c.53 (C.17:11C-51 et seq)<sup>1</sup>.

1 "Residential mortgage broker" means any person, not exempt  
2 under section 5 of this act and licensed pursuant to the provisions of  
3 this act, and any person who should be licensed pursuant to the  
4 provisions of this act, who for compensation or gain, or in the  
5 expectation of compensation or gain, either directly or indirectly  
6 takes a residential mortgage loan application for others, or  
7 negotiates, places or sells for others, or offers to take an application  
8 for, negotiate, place or sell, residential mortgage loans in the  
9 primary market for others. **【The term "residential mortgage broker"**  
10 **also means an individual who is a qualified individual licensee for a**  
11 **residential mortgage broker.】**

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

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

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

37 "Secondary mortgage loan" means a loan made to an individual,  
38 association, joint venture, partnership, limited partnership  
39 association, limited liability company, trust, or any other group of  
40 individuals, however organized, except a corporation, which is  
41 secured in whole or in part by a lien upon any interest in real  
42 property, including but not limited to shares of stock in a  
43 cooperative corporation, created by a security agreement, including  
44 a mortgage, indenture, or any other similar instrument or document,  
45 which real property is subject to one or more prior mortgage liens  
46 and on which there is erected a structure containing a one, two,  
47 three, or four family dwelling, as defined in section **【103(v) of the**

1 Truth in Lending Act, Pub.L.90-321 (15 U.S.C. s.1602(v))**】** 103(w)  
2 of the Truth in Lending Act, Pub.L.90-321 (15 U.S.C. s.1602(w)), a  
3 portion of which structure may be used for nonresidential  
4 purposes**】**, except that the following loans shall not be subject to the  
5 provisions of this act: (1) a loan which is to be repaid in 90 days or  
6 less; (2) a loan which is taken as security for a home repair contract  
7 executed in accordance with the provisions of the "Home Repair  
8 Financing Act," P.L.1960, c.41 (C.17:16C-62 et seq.); or (3) a loan  
9 which is the result of the private sale of a dwelling, if title to the  
10 dwelling is in the name of the seller and the seller has resided in  
11 that dwelling for at least one year, if the buyer is purchasing that  
12 dwelling for his own residence and, if the buyer, as part of the  
13 purchase price, executes a secondary mortgage in favor of the  
14 seller**】**.

15 "Sponsor" means a business licensee that employs a qualified  
16 individual licensee, a mortgage loan originator, or an applicant for a  
17 transitional mortgage loan originator license.

18 "State" means any state of the United States, the District of  
19 Columbia, any territory of the United States, Puerto Rico, Guam,  
20 American Samoa, the U.S. Virgin Islands, and the Commonwealth  
21 of the Northern Mariana Islands unless the context clearly indicates  
22 otherwise.

23 "Transitional mortgage loan originator license" or "transitional  
24 license" means a license, issued to an out-of-State mortgage loan  
25 originator <sup>1</sup>or registered mortgage loan originator<sup>1</sup> that provides  
26 temporary authority to engage in the business of mortgage loan  
27 origination in this State pending the completion by the transitionally  
28 licensed individual of the requirements for licensure as a New  
29 Jersey mortgage loan originator as set forth in section 7 of  
30 P.L.2009, c.53 (C.17:11C-57). A transitional mortgage loan  
31 originator license shall be valid for a term of no longer than <sup>1</sup>**【90】**  
32 120<sup>1</sup> days.

33 "Unique identifier" means a number or other identifier for a  
34 mortgage loan originator or a qualified individual licensee as a  
35 residential mortgage lender or residential mortgage broker, assigned  
36 by protocols established by the Nationwide Mortgage Licensing  
37 System and Registry.

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

39

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

42 4. Except as provided under section 5 of this act, beginning no  
43 later than July 31, 2010, or a later date approved by the Secretary of  
44 the United States Department of Housing and Urban Development  
45 pursuant to the provisions of section 1508 of the federal "Secure  
46 and Fair Enforcement for Mortgage Licensing Act of 2008,"

1 Pub.L.110-289 (12 U.S.C. s.5107), the licensing requirements under  
2 this act shall be as follows:

3 a. For residential mortgage lenders and residential mortgage  
4 brokers, as business licensees:

5 (1) No person shall act as a residential mortgage lender or  
6 broker without first obtaining a license under this act, except that a  
7 person licensed as a residential mortgage lender may act as a  
8 broker, if proper disclosure is made. The department shall issue  
9 licenses which specify whether a business licensee is licensed as a  
10 residential mortgage lender or broker.

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

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

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

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

40 (1) No individual shall act as a qualified individual licensee for  
41 a residential mortgage lender or residential mortgage broker without  
42 first obtaining a license under this act. A qualified individual  
43 licensee **【licensed as a residential mortgage lender or broker】** may  
44 act as a mortgage loan originator.

45 (2) No individual licensee for a mortgage banker, correspondent  
46 mortgage banker, mortgage broker, or secondary lender under the  
47 provisions of the "New Jersey Licensed Lenders Act," sections 1

1 through 49 of P.L.1996, c.157 (C.17:11C-1 et seq.), prior to the  
2 effective date of its reform and re-titling as the "New Jersey  
3 Consumer Finance Licensing Act" pursuant to P.L.2009, c.53  
4 (C.17:11C-51 et al.), shall continue to engage in any activities for  
5 which a license was previously issued, and henceforth act as a  
6 qualified individual licensee without first obtaining a license under  
7 this act.

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

13 c. For mortgage loan originators:

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

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

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

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

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

47 d. For exempt companies:

1     (1) No person shall qualify for registration as an exempt  
2 company unless the person is in the business of mortgage loan  
3 origination solely by virtue of its performance of loan processing or  
4 underwriting functions. The commissioner shall have the authority  
5 to adopt rules in accordance with the “Administrative Procedure  
6 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) specifying additional  
7 criteria on the basis of which a person in the business of mortgage  
8 loan origination solely by virtue of its performance of loan  
9 processing or underwriting functions may qualify for registration as  
10 an exempt company.

11     (2) An exempt company shall register with the commissioner  
12 and with the Nationwide Mortgage Licensing System and Registry.  
13 An applicant for registration or for renewal of registration as an  
14 exempt company shall:

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

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

21         (c) Pay to the Nationwide Mortgage Licensing System and  
22 Registry any fees required by that system and registry, or any fees  
23 which, by arrangement of the commissioner, are payable to the  
24 Nationwide Mortgage Licensing System and Registry on behalf of  
25 the commissioner; and

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

38     (3) A registered exempt company shall:

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

42         (b) Submit to the Nationwide Mortgage Licensing System and  
43 Registry a mortgage call report of conditions, in the form and  
44 manner, and with such information, at any time as may be required  
45 by the nationwide system and registry, and any other report to, or  
46 through, the nationwide system and registry pursuant to an  
47 arrangement for reporting and sharing information;

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

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

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

13  
14       3. Section 5 of P.L.2009, c.53 (C.17:11C-55) is amended to  
15 read as follows:

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

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

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

33       c. A licensed attorney who negotiates the terms of a residential  
34 mortgage loan on behalf of a client as an ancillary matter to the  
35 attorney's representation of the client, unless the attorney is  
36 compensated by a residential mortgage lender, residential mortgage  
37 broker, or mortgage loan originator.

38       d. A person licensed as a real estate broker or salesperson  
39 pursuant to R.S.45:15-1 et seq., and not engaged in the business of a  
40 residential mortgage lender or residential mortgage broker. Any  
41 person holding a license under this act as a residential mortgage  
42 lender or broker shall be exempt from the licensing and other  
43 requirements of R.S.45:15-1 et seq. in the performance of those  
44 functions authorized by this act.

45       e. Any employer, other than a residential mortgage lender, who  
46 provides residential mortgage loans to his employees as a benefit of  
47 employment which are at an interest rate which is not in excess of  
48 the usury rate in existence at the time the loan is made, as

1 established in accordance with the law of this State, and on which  
2 the borrower has not agreed to pay, directly or indirectly, any  
3 charge, cost, expense or any fee whatsoever, other than that interest.

4 f. The State of New Jersey or a municipality, or any agency or  
5 instrumentality thereof, which, in accordance with a housing  
6 element that has received substantive certification from the Council  
7 on Affordable Housing pursuant to the "Fair Housing Act,"  
8 P.L.1985, c.222 (C.52:27D-301 et al.), or in fulfillment of a  
9 regional contribution agreement with a municipality that has  
10 received a certification, employs or proposes to employ municipally  
11 generated funds, funds obtained through any State or federal  
12 subsidy, or funds acquired by the municipality under a regional  
13 contribution agreement, to finance the provision of affordable  
14 housing by extending loans or advances, the repayment of which is  
15 secured by a lien, subordinate to any prior lien, upon the property  
16 that is to be rehabilitated.

17 g. Any individual who offers or negotiates terms of a  
18 residential mortgage loan:

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

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

22 h. Any person who, during a calendar year takes three or fewer  
23 residential mortgage loan applications or offers or negotiates the  
24 terms of three or fewer residential mortgage loans or makes three or  
25 fewer residential mortgage loans related to manufactured housing  
26 structures which are:

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

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

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

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

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

40  
41 4. Section 6 of P.L.2009, c.53 (C.17:11C-56) is amended to  
42 read as follows:

43 6. Beginning no later than July 31, 2010, or a later date  
44 approved by the Secretary of the United States Department of  
45 Housing and Urban Development pursuant to the provisions of  
46 section 1508 of the federal "Secure and Fair Enforcement for  
47 Mortgage Licensing Act of 2008," Pub.L.110-289 (12 U.S.C.  
48 s.5107), the commissioner shall begin issuing licenses for business

1 licensees as residential mortgage lenders or residential mortgage  
2 brokers under this act if the following conditions are met:

3 a. A completed application for a new license or for a renewal  
4 of a license, submitted to the commissioner on the form, in the  
5 manner, and with appropriate evidence in support of the application,  
6 as required by this act and as may be prescribed by the  
7 commissioner.

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

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

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

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

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

44 g. The payment of any required fees under this act, as  
45 established by the commissioner by regulation and payable to the  
46 commissioner or, by arrangement of the commissioner, to the  
47 Nationwide Mortgage Licensing System and Registry on behalf of

1 the commissioner, or as set forth by the nationwide system and  
2 registry and payable to that nationwide system and registry.

3 h. A person whose application is deemed abandoned shall be  
4 required to submit a new application in order to obtain licensure as  
5 a business licensee. The commissioner may adopt rules addressing  
6 notices of abandonment and the subsequent submission of new  
7 applications.

8 (cf: P.L.2009, c.53, s.6  
9

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

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

25 a. For mortgage loan originators and transitional mortgage loan  
26 originators:

27 (1) A completed application for a new license or for a renewal  
28 of a license, submitted to the commissioner on the form, in the  
29 manner, and with appropriate evidence in support of the application,  
30 as required by this act and as may be prescribed by the  
31 commissioner.

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

1 (a) fingerprints, for submission to the Federal Bureau of  
2 Investigation and any other governmental agency authorized to  
3 receive this information for a state, federal, and international  
4 criminal history record background check, to determine whether the  
5 individual has been convicted of, or pled guilty or nolo contendere  
6 to, a felony in a domestic court, which in this State includes any  
7 crime of the fourth degree or higher punishable by a term of  
8 imprisonment of more than one year, or in a foreign or military  
9 court:

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

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

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

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

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

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

- 1 management of the applicant's own financial condition, which may  
2 include, but is not limited to:
- 3 (a) current outstanding judgments, except judgments solely as a  
4 result of medical expenses;
  - 5 (b) current outstanding tax liens or other government liens and  
6 filings;
  - 7 (c) foreclosures during the three-year period preceding the filing  
8 of the application; or
  - 9 (d) a pattern of seriously delinquent accounts during the three-  
10 year period preceding the filing of the application.
- 11 (4) A demonstration of employment by one, and not more than  
12 one, business licensee as required by paragraph (1) of subsection c.  
13 of section 4 of this act.
- 14 (5) The completion of any pre-licensing education requirements  
15 as set forth in section 9 of this act.
- 16 (6) The successful passage of a qualified written test based upon  
17 the testing requirements as set forth in section 10 of this act.
- 18 (7) The completion of any continuing education requirements, if  
19 applicable, as set forth in section 11 of this act.
- 20 (8) A registration with the Nationwide Mortgage Licensing  
21 System and Registry as required by section 12 of this act.
- 22 (9) A demonstration of coverage by a surety bond as required by  
23 section 13 of this act.
- 24 (10) The payment of any required fees under this act, as  
25 established by the commissioner by regulation and payable to the  
26 commissioner or, by arrangement of the commissioner, to the  
27 Nationwide Mortgage Licensing System and Registry on behalf of  
28 the commissioner, or as set forth by the nationwide system and  
29 registry and payable to that nationwide system and registry.
- 30 b. For [residential mortgage lenders and residential mortgage  
31 brokers, as] qualified individual licensees:
- 32 (1) A completed application for a new license or for a renewal  
33 of a license as a qualified licensed individual for a residential  
34 mortgage lender or broker, submitted to the commissioner on the  
35 form, in the manner, and with appropriate evidence in support of the  
36 application, whereby the applicant follows the licensing procedure  
37 and meets the licensing criteria applicable to a mortgage loan  
38 originator, as set forth in subsection a. of this section, except that  
39 the applicant shall not request or be issued a separate license as a  
40 mortgage loan originator under that subsection.
  - 41 (2) A determination with respect to any stricter or additional  
42 licensing requirements that the commissioner may, by regulation,  
43 establish.
  - 44 (3) The payment of any required fees under this act, as  
45 established by the commissioner by regulation and payable to the  
46 commissioner or, by arrangement of the commissioner, to the  
47 Nationwide Mortgage Licensing System and Registry on behalf of

1 the commissioner, or as set forth by the nationwide system and  
2 registry and payable to that nationwide system and registry.

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

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

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

35 (3) For applicants as individual licensees, an offense that was  
36 the subject of an order granting the individual admission to the New  
37 Jersey Pre-trial Intervention Program pursuant to the provisions of  
38 N.J.S. 2C:43-12 through 22, and such offense having been  
39 dismissed with prejudice in accordance with subsection d. of N.J.S.  
40 2C:43-13, or the applicant having been admitted to a functionally  
41 equivalent program of another state or of the United States whereby  
42 an offense was dismissed or a felony conviction was avoided or  
43 eliminated from the record upon the applicant having successfully  
44 completed the program as established by the submission of  
45 confirming documentation, shall not be considered disqualifying  
46 information for purposes of subsection a. of this section.

47 (4) The commissioner may deem abandoned an application for  
48 licensure as a mortgage loan originator, transitional mortgage loan

1 originator, or a qualified individual licensee if the application fails  
2 to meet all of the requirements of a complete application within 90  
3 days of the date on which the application was initially submitted. A  
4 person whose application is deemed abandoned shall be required to  
5 submit a new application in order to pursue licensure as a mortgage  
6 loan originator, transitional mortgage loan originator, or a qualified  
7 individual licensee. The commissioner may adopt rules addressing  
8 notices of abandonment and the subsequent submission of new  
9 applications.

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

11

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

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

17 (1) Shall pay to the commissioner at the time of the application  
18 a nonrefundable application fee, as established by the commissioner  
19 through regulation, not to exceed \$2,800. The nonrefundable  
20 application fee is required for each residential mortgage lender or  
21 broker license issued, including for each branch office license of a  
22 business licensee.

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

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

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

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

39 c. An applicant for a new license or for a renewal of a license  
40 to be a mortgage loan originator or transitional mortgage loan  
41 originator:

42 (1) Shall pay to the commissioner at the time of the application  
43 a nonrefundable application fee, as established by the commissioner  
44 through regulation, not to exceed \$500. A mortgage loan  
45 originator, **【other than a loan processor or underwriter who is an**  
46 **independent contractor and subject to licensure pursuant to**  
47 **paragraph (1) of subsection c. of section 4 of this act,】** who changes

1 the employment affiliation on his license[, which affiliation is  
2 required as a condition of licensure pursuant to paragraph (1) of  
3 subsection c. of section 4 of this act,] to a different business  
4 licensee, shall be required to submit any documentation required by  
5 regulation and [pay another nonrefundable application fee] comply  
6 with all requirements applicable to such changes of employment as  
7 prescribed by rule.

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

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

14

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

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

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

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

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

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

45 (3) ethics.

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

1 d. An applicant may take the qualified written test up to three  
2 consecutive times in order to successfully pass and qualify for  
3 licensure. The applicant shall not take a subsequent, consecutive  
4 test until at least 30 calendar days next following the applicant's  
5 preceding test date. If the applicant fails to pass the qualified  
6 written test after three consecutive attempts, the applicant shall not  
7 be permitted to retake the test for a period of at least six months  
8 from the applicant's last preceding test date.

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

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

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

28 (1) Pursuant to the reasonable standards established by the  
29 nationwide system and registry, an approved continuing educational  
30 course provider may include the employer or affiliated business  
31 licensee of the individual licensee, or an entity which is affiliated  
32 with the individual licensee by an agency contract, or any  
33 subsidiary or affiliate of the individual licensee's employer,  
34 affiliated business licensee, or affiliated entity.

35 (2) Pursuant to the reasonable standards established by the  
36 nationwide system and registry, an approved continuing educational  
37 course may be offered at any location and by any means, including  
38 live classroom instruction, prepared group or individual  
39 coursework, or the Internet.

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

42 (1) 3 hours of instruction on federal statutes and regulations;

43 (2) 2 hours of instruction on ethics, including instruction on  
44 fraud, consumer protection, and fair **【licensing】** lending issues;  
45 **【and】**

46 (3) 2 hours of training related to lending standards for the  
47 nontraditional mortgage product marketplace; and

1       (4) 2 hours of instruction related to New Jersey laws and  
2 regulations on residential mortgage lending.

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

10       (a) in the calendar year in which the licensee takes the course;  
11 and

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

14       (2) A licensed mortgage loan originator【, residential mortgage  
15 lender or broker】 or qualified individual licensee, who is an  
16 approved instructor of an approved continuing educational course,  
17 may receive credit towards the individual licensee's own continuing  
18 educational requirements set forth in this section at the rate of two  
19 hours of credit for every one hour of the approved continuing  
20 educational course taught.

21       (3) If a licensed mortgage loan originator【, residential mortgage  
22 lender or broker】 or qualified individual licensee subsequently  
23 becomes unlicensed, the individual licensee shall complete the  
24 continuing educational requirements set forth in this section for the  
25 last calendar year in which the individual was licensed as a  
26 requirement for a license reinstatement.

27       d. Any continuing educational requirements of another state,  
28 reviewed and approved by the Nationwide Mortgage Licensing  
29 System and Registry, and completed by an applicant for a license  
30 renewal in that state pursuant to the provisions of the federal  
31 "Secure and Fair Enforcement for Mortgage Licensing Act of  
32 2008," title V of Pub.L.110-289 (12 U.S.C. s.5101 et seq.), shall be  
33 accepted by the commissioner from an applicant as credit towards  
34 completion of the reviewed and approved continuing educational  
35 requirements of this section for a license renewal in this State.

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

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

44  
45       9. Section 12 of P.L.2009, c.53 (C.17:11C-62) is amended to  
46 read as follows:

47       12. a. An applicant for an initial license or for a renewal of a  
48 license as a mortgage loan originator, transitional mortgage loan

- 1 originator, or a qualified individual licensee shall, as a licensing  
2 requirement, be registered and assigned a unique identifier through  
3 the Nationwide Mortgage Licensing System and Registry.
- 4 b. (1) In order to ensure compliance by an applicant with this  
5 registration requirement, the commissioner shall utilize, as required  
6 or permitted by the "Secure and Fair Enforcement for Mortgage  
7 Licensing Act of 2008," title V of Pub.L.110-289 (12 U.S.C. s.5101  
8 et seq.) and as otherwise deemed appropriate by the commissioner,  
9 the Nationwide Mortgage Licensing System and Registry.
- 10 (2) The commissioner is authorized, through regulation, to  
11 coordinate the registration of an applicant through the nationwide  
12 system and registry with the State licensing of the applicant under  
13 this act, on any matters deemed necessary by the commissioner for  
14 participation in that nationwide system and registry, including but  
15 not limited to:
- 16 (a) background checks, including a criminal history record  
17 background check, a check of administrative and civil records, and  
18 a credit history check as set forth in section 7 of this act, and  
19 concerning any other information deemed necessary by the  
20 nationwide system and registry;
- 21 (b) setting or resetting of license renewal dates, and  
22 requirements for amending or surrendering a license;
- 23 (c) reporting requirements as set forth pursuant to section 35 of  
24 this act; and
- 25 (d) payment of any required fees, as established by the  
26 commissioner and payable to the commissioner or to the nationwide  
27 system and registry on behalf of the commissioner, and as set forth  
28 by the nationwide system and registry and payable to that  
29 nationwide system and registry.
- 30 (3) The commissioner shall, in order to participate in the  
31 nationwide system and registry, regularly report violations of this  
32 act by an applicant or licensee, as well as information concerning  
33 enforcement actions on those violations, along with any other  
34 relevant information, to the nationwide system and registry, in a  
35 manner and frequency established by that nationwide system and  
36 registry.
- 37 (4) The commissioner shall, in order to participate in the  
38 nationwide system and registry, establish by regulation a process by  
39 which an applicant or current licensee may request access to the  
40 applicant's or licensee's information or material provided to,  
41 received from, or collected by the nationwide system and registry,  
42 and a process by which that applicant or licensee may correct,  
43 amend or delete information or material disputed as incorrect or  
44 incomplete.
- 45 (5) Except as provided under section 1512 of the federal "Secure  
46 and Fair Enforcement for Mortgage Licensing Act of 2008,"  
47 Pub.L.110-289 (12 U.S.C. s.5111), any requirement under federal  
48 or State law, including P.L.1963, c.73 (C.47:1A-1 et seq.),

1 regarding the privacy or confidentiality of any information or  
2 material provided to, received from, or collected by the nationwide  
3 system and registry, and any privilege arising under federal or State  
4 law, including any rules of court, with respect to the information or  
5 material, shall continue to apply after the information or material  
6 has been provided to, received from, or collected by the nationwide  
7 system and registry. The privacy, confidentiality, or privilege shall  
8 also continue to apply with respect to the sharing of the information  
9 or material, pursuant to procedures set forth by the nationwide  
10 system and registry, with any federal banking agency or other  
11 federal agency with mortgage industry oversight authority, or any  
12 state agency with mortgage industry oversight authority. This  
13 paragraph shall not apply to any information or material relating to  
14 the employment history of, and publicly adjudicated disciplinary or  
15 enforcement actions against, an applicant or licensee that is  
16 included in the nationwide system and registry for access by the  
17 public, based upon reasonable standards established by the  
18 nationwide system and registry.

19 (a) In order to ensure the application of privacy, confidentiality,  
20 and privilege protections to information and material as set forth in  
21 this paragraph, the commissioner may enter into any necessary  
22 arrangement with the nationwide system and registry, other federal  
23 or state agency, the Conference of State Bank Supervisors or its  
24 successor organization, or other organization representing a federal  
25 or state agency, regarding information and material the  
26 commissioner shares, and information and materials shared with the  
27 commissioner.

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

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

36 (ii) subpoena or discovery, or admission into evidence, in any  
37 private civil action or administrative process, except with respect to  
38 any privacy, confidentiality, or privilege held by the nationwide  
39 system and registry connected to an applicant's or licensee's  
40 information or material that the applicant or licensee gives  
41 permission to waive, in whole or in part.

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

43

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

46 15. a. A residential mortgage lender or residential mortgage  
47 broker that is a business licensee may maintain a branch office or  
48 offices. The business licensee shall obtain a license for each branch

1 office in this State and each branch office outside this State from  
2 which the licensee has direct contact with New Jersey consumers  
3 regarding origination or brokering.

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

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

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

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

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

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

26

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

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

42 (2) The license of the business licensee shall be posted  
43 conspicuously in the place or places of business of that licensee,  
44 and the license of any qualified individual licensee shall be  
45 maintained by that business licensee and available for public  
46 inspection at the business licensee's place or places of business.

47 (3) A licensee or any other person shall not photocopy or  
48 otherwise reproduce the license except for legitimate business

1 purposes or as required or permitted by the commissioner by  
2 regulation.

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

6 (5) No business licensee shall change **【the】** its name or the  
7 address of the business licensee's place or places of business  
8 without notice to the commissioner in accordance with regulations  
9 as prescribed by the commissioner.

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

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

17 (3) A licensee or any other person shall not photocopy or  
18 otherwise reproduce the license except for legitimate business  
19 purposes or as required or permitted by the commissioner by  
20 regulation.

21 (4) No licensee shall change the name or address of the  
22 licensee's place or places of business without notice to the  
23 commissioner, in accordance with regulations as prescribed by the  
24 commissioner.

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

26  
27 12. Section 20 of P.L.2009, c.53 (C.17:11C-70) is amended to  
28 read as follows:

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

31 (1) The commissioner may access, receive and use any  
32 information or material required of an applicant or licensee  
33 pursuant to sections 6 through 15 of this act, or any other  
34 information or material deemed relevant, to determine whether to  
35 issue or renew a license, or revoke, suspend, or refuse to renew a  
36 license.

37 (2) The commissioner may refuse to issue a license if an  
38 applicant fails to meet the requirements for licensure set forth in  
39 sections 6 through 15 of P.L.2009, c.53 (C.17:11C-56 through  
40 17:11C-65), as applicable.

41 **【(2)】** (3) The commissioner **【may refuse to issue, and】** may  
42 revoke, suspend, or refuse to renew, a residential mortgage lender  
43 or residential mortgage broker license, including the license of a  
44 qualified individual licensee or a branch office license, or a  
45 mortgage loan originator license, or transitional mortgage loan  
46 originator license, or impose a penalty pursuant to this act, if the  
47 commissioner finds, after notice and an opportunity for a hearing in

1 accordance with the "Administrative Procedure Act," P.L.1968,  
2 c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder, that  
3 any person~~], applicant for]~~ or holder of the license has:

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

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

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

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

20 (e) Become insolvent;

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

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

26 ~~[(3)]~~ (4) A license of a business licensee may be suspended,  
27 revoked, or not renewed if any officer, director, partner, or owner of  
28 the licensee has committed any act which would be cause for  
29 suspending, revoking or not renewing a license if issued to that  
30 person as an individual.

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

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

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

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

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

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

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

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

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

45       c. The commissioner, in order to fulfill the activities  
46 encompassed by the commissioner's authority set forth in this  
47 section, may:

- 1 (1) Retain attorneys, accountants, or other professionals or  
2 specialists as examiners, auditors, or investigators to conduct, or  
3 assist with, any licensing activity, examination, or investigation;
- 4 (2) Utilize any public or privately available analytical system,  
5 method, or software;
- 6 (3) Utilize any examination or investigative report prepared by  
7 any federal banking agency or other federal agency, or any state  
8 agency including another department, division, bureau, or office of  
9 this State; and
- 10 (4) Enter into any necessary arrangement with a federal or state  
11 agency, the Conference of State Bank Supervisors or its successor  
12 organization, or other organization representing any federal or state  
13 agency, in order to reduce the commissioner's regulatory burden by  
14 sharing resources, including sharing information and materials  
15 through the Nationwide Mortgage Licensing System and Registry in  
16 accordance with subsection b. of section 12 of this act, and  
17 following standardized or uniform methods or procedures.  
18 (cf: P.L.2009, c.53, s.20)

19

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

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

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

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

46 (1) “Application fee” means a fee imposed by a lender or a  
47 broker for taking or processing a loan application, which fee shall  
48 not be based upon a percentage of the principal amount of the loan

1 or the amount financed. An application fee may be charged only  
2 once with respect to the same mortgage loan application and, where  
3 a loan is brokered, may be charged by a residential mortgage lender  
4 or a residential mortgage broker, but not by both.

5 (2) “Appraisal fee” means a fee charged to a borrower by a  
6 lender or broker to recover the direct cost of the fee charged by a  
7 duly credentialed real estate appraiser for an appraisal in connection  
8 with a mortgage loan application. An appraisal fee may be charged  
9 to a borrower by a residential mortgage lender or by a residential  
10 mortgage broker, but not by both in connection with the same  
11 mortgage loan application. A lender or broker may charge a  
12 borrower an appraisal fee for a second appraisal provided that  
13 requiring a second appraisal is in accordance with duly promulgated  
14 rules.

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

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

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

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

45 (7) “Lock-in agreement” means a written agreement between a  
46 lender and a borrower whereby the lender guarantees until a  
47 specified date or for a specified period of time the availability of a  
48 specified rate of interest or specified formula by which the rate of

1 interest will be determined and, if applicable, the specific number of  
2 discount points required to obtain such rate or formula, provided the  
3 loan is approved and closed by the specified date. No lender may  
4 charge a lock-in fee for a lock-in agreement executed after midnight  
5 of the third business day prior to the day upon which the mortgage  
6 loan closing occurs.

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

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

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

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

34 e. No residential mortgage lender or residential mortgage  
35 broker may charge any fee **【either】** not expressly authorized either

36 by this section or **【authorized】** by the commissioner by regulation.  
37 f. In addition to the rulemaking authority granted the  
38 commissioner with respect to subsections a. through e. of this  
39 section, the commissioner shall be authorized to promulgate such  
40 rules and forms as may reasonably be deemed necessary by the  
41 commissioner to provide for the adequate disclosure to borrowers of  
42 fees permitted under this section consistent with the provisions of  
43 this section and with applicable provisions of federal regulations  
44 and forms.

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

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

1       1. Except for a State or federally chartered bank, savings bank,  
2 savings and loan association or its subsidiary or any officer or  
3 employee of any of the foregoing, no other lending institution,  
4 mortgage service, mortgage brokerage or mortgage guaranty  
5 company or service company or any person licensed pursuant to  
6 **【P.L.1996, c.157 (C.17:11C-1 et seq.)】** the “New Jersey Residential  
7 Mortgage Lending Act,” sections 1 through 39 of P.L.2009, c.53  
8 (C.17:11C-51 through C.17C:11C-89) shall be licensed as or  
9 permitted to act as an insurance producer for a title insurance  
10 company. No bank, trust company, bank and trust company, or  
11 other lending institution, mortgage service, mortgage brokerage or  
12 mortgage guaranty company, or any service company of or for any  
13 lending institution shall make the selection of a particular title  
14 insurance company or insurance producer a condition precedent to  
15 the granting of any mortgage loan.

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

17

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

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

25       (1) charter fees;

26       (2) application fees for licenses;

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

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

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

32       (6) fees charged any entity not chartered, licensed or registered  
33 by this State, including but not limited to activities conducted by  
34 foreign banks pursuant to section 316 of P.L.1948, c.67 (C.17:9A-  
35 316) or foreign associations pursuant to section 214 of P.L.1963,  
36 c.144 (C.17:12B-214); **【and】**

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

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

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

46       c. Except as provided in paragraph (1) of subsection d. of  
47 section 7 of the "New Jersey Home Ownership Security Act of  
48 2002," P.L.2003, c.64 (C.46:10B-28), and subsection i. of section 3

1 of the "Governmental Unit Deposit Protection Act," P.L.1970, c.236  
2 (C.17:9-43), all fees, charges, fines and penalties as described in  
3 subsections a. and b. of this subsection shall be remitted to the State  
4 Treasurer for deposit into the General Fund, and those fees,  
5 charges, fines and penalties shall not be part of the assessment  
6 funding mechanism or considered in the calculation pursuant to  
7 section 15 of this act.  
8 (cf: P.L.2009, c.326, s.7)  
9

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

12 As used in this act:

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

19 b. "Commissioner" shall mean the Commissioner of Banking  
20 and Insurance of New Jersey.  
21 (cf: P.L.1979, c.193, s.1)  
22

23 17. (New section) The Commissioner of Banking and Insurance  
24 may adopt rules and regulations, in accordance with the  
25 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
26 seq.), necessary to effectuate the provisions of this act.  
27

28 18. This act shall take effect on the 90<sup>th</sup> day after the date of  
29 enactment, but the commissioner may take such anticipatory  
30 administrative action in advance as may be necessary for the  
31 implementation of this act.  
32  
33  
34

35  
36 \_\_\_\_\_  
Revises "New Jersey Residential Mortgage Lending Act."