

# SENATE, No. 709

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**SYNOPSIS**

Revises “New Jersey Residential Mortgage Lending Act.”

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



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

3  
4       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5       *of New Jersey:*

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

9       3. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

      Matter underlined thus is new matter.

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

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

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

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

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

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

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

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

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

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

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

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

22       “Individual” means a natural person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (a) a depository institution;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29  
30 2. Section 4 of P.L.2009, c.53 (C.17:11C-54) is amended to  
31 read as follows:

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

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

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

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



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

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

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

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

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

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

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

1 c. For mortgage loan originators:

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

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

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

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

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

35 d. For exempt companies:

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

46 (2) An exempt company shall register with the commissioner  
47 and with the Nationwide Mortgage Licensing System and Registry.

- 1 An applicant for registration or for renewal of registration as an  
2 exempt company shall:
- 3 (a) Submit a completed application to the commissioner on the  
4 form, in the manner, and with the appropriate evidence in support of  
5 the application as may be prescribed by the commissioner;
- 6 (b) Pay to the commissioner at the time of application a  
7 nonrefundable application fee not to exceed \$500 as established by  
8 the commissioner by regulation;
- 9 (c) Pay to the Nationwide Mortgage Licensing System and  
10 Registry any fees required by that system and registry, or any fees  
11 which, by arrangement of the commissioner, are payable to the  
12 Nationwide Mortgage Licensing System and Registry on behalf of  
13 the commissioner; and
- 14 (d) Obtain a blanket bond in an amount and form prescribed by  
15 the commissioner, but not less than \$25,000. The bond shall be  
16 obtained from a surety company authorized by law to do business in  
17 this State. The exempt company shall procure the bond to cover its  
18 mortgage loan origination related activities. The bond shall run to  
19 the State for the benefit of any person injured by the wrongful act,  
20 default, fraud or misrepresentation of any person covered by the  
21 bond. No bond shall comply with the requirements of this  
22 subparagraph unless the bond contains a provision that it shall not  
23 be canceled for any cause unless notice of intention to cancel is  
24 filed in the department at least 30 days before the day upon which  
25 cancellation shall take effect.
- 26 (3) A registered exempt company shall:
- 27 (a) Respond in a timely manner to any request of the  
28 commissioner for the production of and access to books, records,  
29 accounts, documents or other information relative to its operations;
- 30 (b) Submit to the Nationwide Mortgage Licensing System and  
31 Registry a mortgage call report of conditions, in the form and  
32 manner, and with such information, at any time as may be required  
33 by the nationwide system and registry, and any other report to, or  
34 through, the nationwide system and registry pursuant to an  
35 arrangement for reporting and sharing information;
- 36 (c) Provide written notice to the commissioner within 10 days of  
37 the occurrence of any event that would cause the exempt company  
38 to no longer qualify for registration as such under the terms of this  
39 subsection d. and so notify in writing all licensed mortgage loan  
40 originators employed or retained by the exempt company; and
- 41 (d) Employ at least one individual who is licensed as a mortgage  
42 loan originator who shall not engage in the origination of mortgage  
43 loans under P.L. , c. (pending before the Legislature as this bill)  
44 and shall be assigned supervision and instruction duties with respect  
45 to individuals employed as loan processors or loan underwriters as  
46 defined in section 3 of P.L.2009, c.53 (C.17:11C-53).  
47 (cf: P.L.2015, c.14, s.1)

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

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

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

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

20       c. A licensed attorney who negotiates the terms of a residential  
21 mortgage loan on behalf of a client as an ancillary matter to the  
22 attorney's representation of the client, unless the attorney is  
23 compensated by a residential mortgage lender, residential mortgage  
24 broker, or mortgage loan originator.

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

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

39       f. The State of New Jersey or a municipality, or any agency or  
40 instrumentality thereof, which, in accordance with a housing  
41 element that has received substantive certification from the Council  
42 on Affordable Housing pursuant to the "Fair Housing Act,"  
43 P.L.1985, c.222 (C.52:27D-301 et al.), or in fulfillment of a  
44 regional contribution agreement with a municipality that has  
45 received a certification, employs or proposes to employ municipally  
46 generated funds, funds obtained through any State or federal  
47 subsidy, or funds acquired by the municipality under a regional  
48 contribution agreement, to finance the provision of affordable

1 housing by extending loans or advances, the repayment of which is  
2 secured by a lien, subordinate to any prior lien, upon the property  
3 that is to be rehabilitated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 7. Beginning no later than July 31, 2010, or a later date  
47 approved by the Secretary of the United States Department of  
48 Housing and Urban Development pursuant to the provisions of

1 section 1508 of the federal "Secure and Fair Enforcement for  
2 Mortgage Licensing Act of 2008," Pub.L.110-289 (12 U.S.C.  
3 s.5107), the commissioner shall begin issuing licenses for  
4 individual licensees under this act, utilizing the Nationwide  
5 Mortgage Licensing System and Registry, or other entity designated  
6 by that nationwide system and registry, as required or permitted by  
7 the federal "Secure and Fair Enforcement for Mortgage Licensing  
8 Act of 2008" and as otherwise deemed appropriate by the  
9 commissioner to carry out the provisions of this act, if the following  
10 conditions are met:

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

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

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

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

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

47 (ii) at any time preceding the filing of the application, if the  
48 felony involved an act of fraud, dishonesty, a breach of trust, or

1 money laundering, except that a conviction under this sub-  
2 subparagraph which is pardoned or expunged shall not be  
3 considered disqualifying information; and

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43  
44 6. Section 8 of P.L.2009, c.53 (C.17:11C-58) is amended to  
45 read as follows:

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

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

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

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

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

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

23 c. An applicant for a new license or for a renewal of a license  
24 to be a mortgage loan originator or transitional mortgage loan  
25 originator:

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

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

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

45  
46 7. Section 10 of P.L.2009, c.53 (C.17:11C-60) is amended to  
47 read as follows:

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

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

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

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

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

29      (3) ethics.

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

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

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

48      (cf: P.L.2009, c.53, s.10)

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

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

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

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

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

25       (1) 3 hours of instruction on federal statutes and regulations;

26       (2) 2 hours of instruction on ethics, including instruction on  
27 fraud, consumer protection, and fair **licensing** lending issues;  
28 **and**

29       (3) 2 hours of training related to lending standards for the  
30 nontraditional mortgage product marketplace; and

31       (4) 2 hours of instruction related to New Jersey laws and  
32 regulations on residential mortgage lending.

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

40       (a) in the calendar year in which the licensee takes the course;  
41 and

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

44       (2) A licensed mortgage loan originator**,** residential mortgage  
45 lender or broker**]** or qualified individual licensee, who is an  
46 approved instructor of an approved continuing educational course,  
47 may receive credit towards the individual licensee's own continuing  
48 educational requirements set forth in this section at the rate of two

1 hours of credit for every one hour of the approved continuing  
2 educational course taught.

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

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

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

26  
27 9. Section 12 of P.L.2009, c.53 (C.17:11C-62) is amended to  
28 read as follows:

29 12. a. An applicant for an initial license or for a renewal of a  
30 license as a mortgage loan originator, transitional mortgage loan  
31 originator, or a qualified individual licensee shall, as a licensing  
32 requirement, be registered and assigned a unique identifier through  
33 the Nationwide Mortgage Licensing System and Registry.

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

40 (2) The commissioner is authorized, through regulation, to  
41 coordinate the registration of an applicant through the nationwide  
42 system and registry with the State licensing of the applicant under  
43 this act, on any matters deemed necessary by the commissioner for  
44 participation in that nationwide system and registry, including but  
45 not limited to:

46 (a) background checks, including a criminal history record  
47 background check, a check of administrative and civil records, and  
48 a credit history check as set forth in section 7 of this act, and

1 concerning any other information deemed necessary by the  
2 nationwide system and registry;

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

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

7 (d) payment of any required fees, as established by the  
8 commissioner and payable to the commissioner or to the nationwide  
9 system and registry on behalf of the commissioner, and as set forth  
10 by the nationwide system and registry and payable to that  
11 nationwide system and registry.

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

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

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

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

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

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

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

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

25  
26 10. Section 15 of P.L.2009, c.53 (C.17:11C-65) is amended to  
27 read as follows:

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

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

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

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

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

45 c. Each branch office shall be under the supervision of a  
46 branch manager. A branch manager shall supervise only one branch  
47 office at any given time except as may be permitted by the  
48 commissioner in accordance with applicable rules. In order to act



1 in the capacity as a branch manager, an individual shall either  
2 possess a mortgage loan originator license or, if unlicensed, the  
3 qualified individual licensee of the business licensee shall certify  
4 that when acting in the capacity of a branch manager the unlicensed  
5 individual shall not engage in any activity that would require  
6 licensure as a mortgage loan originator.

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

8  
9 11. Section 17 of P.L.2009, c.53 (C.17:11C-67) is amended to  
10 read as follows:

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

24 (2) The license of the business licensee shall be posted  
25 conspicuously in the place or places of business of that licensee,  
26 and the license of any qualified individual licensee shall be  
27 maintained by that business licensee and available for public  
28 inspection at the business licensee's place or places of business.

29 (3) A licensee or any other person shall not photocopy or  
30 otherwise reproduce the license except for legitimate business  
31 purposes or as required or permitted by the commissioner by  
32 regulation.

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

36 (5) No business licensee shall change **the** its name or the  
37 address of the business licensee's place or places of business  
38 without notice to the commissioner in accordance with regulations  
39 as prescribed by the commissioner.

40 b. (1) The license for a mortgage loan originator shall state the  
41 name of the originator's **employing business licensee** licensed or  
42 registered employer and **the licensee's** place or places of business,  
43 as applicable, and **shall contain any such** other information as  
44 the commissioner **may see fit to require** deems necessary.

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

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

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

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

10  
11 12. Section 20 of P.L.2009, c.53 (C.17:11C-70) is amended to  
12 read as follows:

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

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

21 (2) The commissioner may refuse to issue a license if an  
22 applicant fails to meet the requirements for licensure set forth in  
23 sections 6 through 15 of P.L.2009, c.53 (C.17:11C-56 through  
24 17:11C-65), as applicable.

25 **[(2)] (3)** The commissioner **[may refuse to issue, and]** may  
26 revoke, suspend, or refuse to renew, a residential mortgage lender  
27 or residential mortgage broker license, including the license of a  
28 qualified individual licensee or a branch office license, or a  
29 mortgage loan originator license, or transitional mortgage loan  
30 originator license, or impose a penalty pursuant to this act, if the  
31 commissioner finds, after notice and an opportunity for a hearing in  
32 accordance with the "Administrative Procedure Act," P.L.1968,  
33 c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder, that  
34 any person**[, applicant for]** or holder of the license has:

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

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

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

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

3 (e) Become insolvent;

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

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

9 **[(3)] (4)** A license of a business licensee may be suspended,  
10 revoked, or not renewed if any officer, director, partner, or owner of  
11 the licensee has committed any act which would be cause for  
12 suspending, revoking or not renewing a license if issued to that  
13 person as an individual.

14 **[(4)] (5)** If the license issued to a residential mortgage lender  
15 or residential mortgage broker as a qualified individual licensee is  
16 revoked or suspended, the affiliated license issued to the business  
17 licensee shall also be revoked or suspended by the commissioner,  
18 unless within the time fixed by the commissioner, in the case of a  
19 partnership, the connection therewith of the offending qualified  
20 individual licensee whose license has been revoked or suspended  
21 shall be severed and that individual's interest in the partnership and  
22 share in its activities brought to an end, or in the case of an  
23 association, corporation, or other legal entity, the offending  
24 qualified individual licensee whose license has been revoked or  
25 suspended shall be discharged and shall have no further  
26 participation in the legal entity's activities. In the case of an  
27 offending qualified individual licensee who is an officer or director  
28 of the corporation or other legal entity, that individual shall be  
29 required to fully divest himself of all stock, bonds or other  
30 corporate holdings.

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

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

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

40 (3) Whenever it appears to the commissioner that any person  
41 has engaged, is engaged, or is about to engage in any practice or  
42 transaction prohibited by this act, the commissioner may issue, in  
43 accordance with the "Administrative Procedure Act," P.L.1968,  
44 c.410 (C.52:14B-1 et seq.), a cease and desist order if the  
45 commissioner determines it necessary. In addition to any other  
46 remedy available, the commissioner may also bring a summary  
47 action in a court of competent jurisdiction against a person, and any  
48 other person concerned or in any way participating in or about to

1 participate in a practice or transaction in violation of this act, to  
2 enjoin the person from continuing the practice or transaction  
3 engaged in, or from engaging in the practice or transaction, or doing  
4 any act in furtherance towards engaging in the practice or  
5 transaction.

6 (4) The commissioner may impose a civil penalty not exceeding  
7 \$25,000 on any person for a violation of this act. Each violation of  
8 this act, including any order, rule or regulation made or issued  
9 pursuant to this act, shall constitute a separate offense.  
10 Additionally, each violation of this act which constitutes a knowing  
11 violation shall be considered a crime of the third degree.

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

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

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

27 c. The commissioner, in order to fulfill the activities  
28 encompassed by the commissioner's authority set forth in this  
29 section, may:

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

33 (2) Utilize any public or privately available analytical system,  
34 method, or software;

35 (3) Utilize any examination or investigative report prepared by  
36 any federal banking agency or other federal agency, or any state  
37 agency including another department, division, bureau, or office of  
38 this State; and

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

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

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

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

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

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

27       (1) “Application fee” means a fee imposed by a lender or a  
28 broker for taking or processing a loan application, which fee shall  
29 not be based upon a percentage of the principal amount of the loan  
30 or the amount financed. An application fee may be charged only  
31 once with respect to the same mortgage loan application and, where  
32 a loan is brokered, may be charged by a residential mortgage lender  
33 or a residential mortgage broker, but not by both.

34       (2) “Appraisal fee” means a fee charged to a borrower by a  
35 lender or broker to recover the direct cost of the fee charged by a  
36 duly credentialed real estate appraiser for an appraisal in connection  
37 with a mortgage loan application. An appraisal fee may be charged  
38 to a borrower by a residential mortgage lender or by a residential  
39 mortgage broker, but not by both in connection with the same  
40 mortgage loan application. A lender or broker may charge a  
41 borrower an appraisal fee for a second appraisal provided that  
42 requiring a second appraisal is in accordance with duly promulgated  
43 rules.

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

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

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

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

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

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

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

46       (10) “Warehouse fee” means a fee charged by a lender not to  
47 exceed the cost associated with holding the particular mortgage loan  
48 pending its assignment to a permanent investor, and payable at

1 closing. The fee shall be based on the actual holding period and  
2 warehouse rate and the initial coupon rate on the mortgage loan.  
3 No profit shall accrue to a lender from collection of a warehouse  
4 fee.

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

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

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

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

28  
29 14. Section 1 of P.L.1991, c.18 (C.17:46B-30.1) is amended to  
30 read as follows:

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

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

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

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

8       (1) charter fees;

9       (2) application fees for licenses;

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

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

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

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

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

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

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

29       c. Except as provided in paragraph (1) of subsection d. of  
30 section 7 of the "New Jersey Home Ownership Security Act of  
31 2002," P.L.2003, c.64 (C.46:10B-28), and subsection i. of section 3  
32 of the "Governmental Unit Deposit Protection Act," P.L.1970, c.236  
33 (C.17:9-43), all fees, charges, fines and penalties as described in  
34 subsections a. and b. of this subsection shall be remitted to the State  
35 Treasurer for deposit into the General Fund, and those fees,  
36 charges, fines and penalties shall not be part of the assessment  
37 funding mechanism or considered in the calculation pursuant to  
38 section 15 of this act.

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

40

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

43       As used in this act:

44       a. "Financial institution" shall mean any bank, savings bank,  
45 state association, credit union, **secondary** residential mortgage  
46 lender, **small loan company** residential mortgage broker,  
47 consumer lender or any other institution, corporation, partnership



1 or individual subject to the supervision, regulation or licensing by  
2 the Department of Banking.

3 b. "Commissioner" shall mean the Commissioner of Banking  
4 and Insurance of New Jersey.

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

6  
7 17. (New section) The Commissioner of Banking and Insurance  
8 may adopt rules and regulations, in accordance with the  
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
10 seq.), necessary to effectuate the provisions of this act.

11  
12 18. This act shall take effect on the 90<sup>th</sup> day after the date of  
13 enactment, but the commissioner may take such anticipatory  
14 administrative action in advance as may be necessary for the  
15 implementation of this act.

## 16 17 18 STATEMENT

19  
20 This bill revises the "New Jersey Residential Mortgage Lending  
21 Act," sections 1 through 39 of P.L.2009, c.53 (C.17:11C-51 through  
22 C.17C:11C-89), which governs the activities of residential  
23 mortgage lenders and brokers, protects consumers seeking mortgage  
24 loans, and provides the Department of Banking and Insurance with  
25 broad authority to oversee the operation of the mortgage lending  
26 industry. The bill also amends certain related statutes.

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

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

1 holds a valid mortgage loan originator license issued  
2 pursuant to the law of any state or other jurisdiction within  
3 the United States.

4 • “Transitional mortgage loan originator license” or  
5 “transitional license” means a license, issued to an out-of-  
6 State mortgage loan originator that provides temporary  
7 authority to engage in the business of mortgage loan  
8 origination in this State pending the completion by the  
9 transitionally licensed individual of the requirements for  
10 licensure as a New Jersey mortgage loan originator as set  
11 forth in the act as amended by this bill.

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

15 A depository institution, although otherwise exempt from the  
16 bill’s requirements, may register with the department to sponsor  
17 individuals licensed as mortgage loan originators, under certain  
18 conditions. The bill also exempts bona fide not for profit entities  
19 from the act’s requirements.

20 The bill provides additional authority to the department with  
21 respect to certain aspects of business licensees. The bill requires  
22 that a branch office of a business licensee shall be under the  
23 supervision of a branch manager.

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

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

39 Although entities regulated by the Division of Banking in the  
40 Department of Banking and Insurance that pay a special purpose  
41 assessment to the division are typically exempt from most fees  
42 imposed by the division, the bill provides that these entities are not  
43 exempt from fees charged any exempt company pursuant to the  
44 provisions of the bill.

45 The bill also makes some technical changes.