

## CHAPTER 14

**AN ACT** concerning licensing requirements for certain residential mortgage lending and amending P.L.2009, c.53.

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

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

C.17:11C-54 Licensing requirements.

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

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

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

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

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

b. For residential mortgage lenders and residential mortgage brokers, as qualified individual licensees:

(1) No individual shall act as a qualified individual licensee for a residential mortgage lender or residential mortgage broker without first obtaining a license under this act. A qualified individual licensee licensed as a residential mortgage lender or broker may act as a mortgage loan originator.

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

c. For mortgage loan originators:

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

(b) No individual, except as provided in paragraph (2) of this subsection, shall be issued or hold a license as a mortgage loan originator unless employed as an originator by one, and not more than one, business licensee, and is subject to the direct supervision and control of that licensee.

(2) No loan processor or underwriter who is an independent contractor shall act as a loan processor or underwriter without first obtaining a mortgage loan originator license under this act.

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

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

C.17:11C-55 Inapplicability of act.

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

a. Depository institutions; but subsidiaries and service corporations of these institutions shall not be exempt.

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

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

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

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

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

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

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

- (1) with or on behalf of an immediate family member; or
- (2) secured by a dwelling that served as the individual's residence.

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

- (1) titled by the New Jersey Motor Vehicle Commission;
- (2) located in a mobile home park as defined in subsection e. of section 3 of P.L.1983, c.400 (C.54:4-1.4); and
- (3) exempt from taxation as real property pursuant to subsection b. of section 4 of P.L.1983, c.400 (C.54:4-1.5).

3. This act shall take effect immediately.

Approved February 5, 2015.