ASSEMBLY, No. 4998

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED FEBRUARY 7, 2019

Sponsored by:
Assemblyman BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)
Assemblywoman PATRICIA EGAN JONES
District 5 (Camden and Gloucester)

SYNOPSIS

Clarifies that "New Jersey Residential Mortgage Lending Act" applies to certain out-of-state persons involved in residential mortgage lending in the State.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning licensing and other requirements for 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:

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. 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.

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 <u>thus</u> is new matter.

b. For 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 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 or transitional license under this act.

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

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

(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.

d. For exempt companies:

(1) No person shall qualify for registration as an exempt company unless the person is in the business of mortgage loan origination solely by virtue of its performance of loan processing or underwriting functions. The commissioner shall have the authority

to adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) specifying additional criteria on the basis of which a person in the business of mortgage loan origination solely by virtue of its performance of loan processing or underwriting functions may qualify for registration as an exempt company.

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

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

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

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

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

(3) A registered exempt company shall:

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

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

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

(d) Employ at least one individual who is licensed as a mortgage loan originator who shall not engage in the origination of mortgage loans under P.L.2018, c.108 and shall be assigned supervision and instruction duties with respect to individuals employed as loan processors or loan underwriters as defined in section 3 of P.L.2009, c.53 (C.17:11C-53).

e. The provisions of the "New Jersey Residential Mortgage Lending Act," sections 1 through 39 of P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89) shall also apply to residential mortgage lenders, residential mortgage brokers, mortgage loan originators, and other persons that are located out-of-State, provided they are otherwise required to be licensed pursuant to the provisions of the act in the State.

(cf: P.L.2018, c.108, s.2)

2. This act shall take effect immediately.

STATEMENT

This bill clarifies that the provisions of the "New Jersey Residential Mortgage Lending Act," sections 1 through 39 of P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89) also apply to residential mortgage lenders, residential mortgage brokers, mortgage loan originators, and other persons that are located out-of-State, provided they are otherwise required to be licensed pursuant to the provisions of the act.

The "New Jersey Residential Mortgage Lending Act" protects New Jersey consumers and the stability of New Jersey's economy by applying certain standards for the licensing and business practices of residential mortgage lenders, brokers, and loan originators and by providing the Department of Banking and Insurance broad administrative authority to oversee the operation of the mortgage lending industry in the State.