

P.L. 2019, CHAPTER 65, *approved April 29, 2019*  
Assembly, No. 4997 (*First Reprint*)

1 AN ACT concerning licensing of mortgage servicers <sup>1</sup>**[and]**,<sup>1</sup>  
2 supplementing Title 17 of the Revised Statutes <sup>1</sup>and amending  
3 P.L.2005, c.199<sup>1</sup>.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. (New section) This act shall be known and may be cited as  
9 the “Mortgage Servicers Licensing Act.”  
10

11 2. (New section) As used in this act:  
12 “Branch office” means a location other than the main office at  
13 which a licensee or any person on behalf of a licensee acts as a  
14 mortgage servicer.

15 “Commissioner” means the Commissioner of Banking and  
16 Insurance.

17 “Control” means the power, directly or indirectly, to direct the  
18 management or policies of a company, whether through ownership  
19 of securities, by contract or otherwise.

20 “Control person” means an individual that directly or indirectly  
21 exercises control over any person that:

22 (1) is a director, general partner or executive officer;

23 (2) in the case of a corporation, directly or indirectly has the  
24 right to vote 10 percent or more of a class of any voting security or  
25 has the power to sell or direct the sale of 10 percent or more of any  
26 class of voting securities;

27 (3) in the case of a limited liability company, is a managing  
28 member; or

29 (4) in the case of a partnership, has the right to receive upon  
30 dissolution, or has contributed, 10 percent or more of the capital,  
31 shall be presumed to be a control person.

32 “Department” means the Department of Banking and Insurance.

33 “Individual” means a natural person.

34 “Mortgage servicer” means:

35 (1) any person, wherever located, who, for the person or on  
36 behalf of the holder of a residential mortgage loan, receives  
37 payments of principal and interest in connection with a residential  
38 mortgage loan, records the payments on the person’s books and

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AHO committee amendments adopted March 7, 2019.

1 records and performs the other administrative functions as may be  
2 necessary to properly carry out the mortgage holder's obligations  
3 under the mortgage agreement including, when applicable, the  
4 receipt of funds from the mortgagor to be held in escrow for  
5 payment of real estate taxes and insurance premiums and the  
6 distribution of the funds to the taxing authority and insurance  
7 company; and

8 (2) includes a person who makes payments to borrowers  
9 pursuant to the terms of a home equity conversion mortgage or  
10 reverse mortgage.

11 "Mortgagee" means the grantee of a residential mortgage,  
12 provided if the residential mortgage has been assigned of record,  
13 "mortgagee" means the last person to whom the residential  
14 mortgage has been assigned of record.

15 "Mortgagor" means any person obligated to repay a residential  
16 mortgage loan.

17 "Office" means a main office or branch office.

18 "Residential mortgage loan" means a loan made to a natural  
19 person or persons to whom credit is offered or extended primarily  
20 for personal, family or household purposes which is secured by a  
21 mortgage constituting a lien upon real property located in this State  
22 on which there is erected or to be erected a structure containing one,  
23 two, three, four, five, or six dwelling units, a portion of which  
24 structure may be used for nonresidential purposes, in the making of  
25 which the mortgagee relies primarily upon the value of the  
26 mortgaged property.

27 "Residential mortgage lender" means the same as "residential  
28 mortgage lender" as defined in section 3 of P.L.2009, c.53  
29 (C.17:11C-53).

30

31 3. (New section) a. On and after <sup>1</sup>**[January 1, 2019]** the  
32 effective date of this act<sup>1</sup>, no person shall act as a mortgage  
33 servicer, directly or indirectly, without first obtaining a license  
34 under section 4 of this act from the commissioner for its main  
35 office, which shall be designated by the mortgage servicer, and each  
36 branch office where business is conducted, unless the person is  
37 exempt from licensure pursuant to subsection b. of this section.

38 b. The following persons shall be exempt from mortgage  
39 servicer licensing requirements:

40 (1) any bank, out-of-state bank, credit union chartered in New  
41 Jersey, federal credit union, or out-of-state credit union, provided  
42 the bank or credit union is federally insured;

43 (2) any wholly-owned subsidiary of the bank or credit union;

44 (3) any operating subsidiary in situations in which each owner  
45 of the operating subsidiary is wholly owned by the same bank or  
46 credit union;

47 (4) any person licensed as a residential mortgage lender  
48 pursuant to the "New Jersey Residential Mortgage Lending Act,"

1 P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89) while acting as  
2 a mortgage servicer, provided that:

3 (a) the person meets the supplemental mortgage servicer surety  
4 bond, fidelity bond, and errors and omissions coverage  
5 requirements under section 8 of this act; and

6 (b) during any period that the license of the residential mortgage  
7 lender in this State has been suspended, the exemption shall not be  
8 effective; and

9 (5) the New Jersey Housing and Mortgage Finance Agency.

10 c. The provisions of sections 9 through 12 of this act shall  
11 apply to any person, including a person exempt from licensure  
12 pursuant to subsection b. of this section, who acts as a mortgage  
13 servicer in this State on or after <sup>1</sup>**January 1, 2019** the effective  
14 date of this act<sup>1</sup>.

15

16 4. (New section) a. The commissioner shall issue a mortgage  
17 servicer license to an applicant if the commissioner finds that:

18 (1) the applicant has identified a qualified individual for its  
19 main office, and a branch manager for each branch office where the  
20 business is conducted, provided the qualified individual and branch  
21 manager have supervisory authority over the mortgage servicer  
22 activities at the respective office location and at least three years'  
23 experience in the mortgage servicing business within the five years  
24 immediately preceding the date of the application for licensure;

25 (2) the applicant, the control persons of the applicant, the  
26 qualified individual and any branch manager with supervisory  
27 authority at the office for which the license is sought, have not been  
28 convicted of or pled guilty or nolo contendere to, in a domestic,  
29 foreign, or military court, a felony during the seven-year period  
30 preceding the date of the application for licensing, or a felony  
31 involving an act of fraud or dishonesty, a breach of trust or money  
32 laundering at any time preceding the date of application, except that  
33 any pardon or expungement of a conviction shall not be a  
34 conviction for purposes of this paragraph;

35 (3) the applicant demonstrates that the financial responsibility,  
36 character and general fitness of the applicant, the control persons of  
37 the applicant, the qualified individual and any branch manager  
38 having supervisory authority over the office for which the license is  
39 sought, warrant a determination that the applicant will operate  
40 honestly, fairly and efficiently within the purposes of this act <sup>1</sup>.  
41 Financial responsibility shall be demonstrated by submission of the  
42 applicant's most recent audited financial statements and by such  
43 other information and documents as the commissioner may require  
44 by regulation;<sup>1</sup>

45 (4) the applicant has met the surety bond, fidelity bond, and  
46 errors and omissions coverage requirement under section 8 of this  
47 act;

1 (5) the applicant has not made a material misstatement in the  
2 application; and

3 (6) the applicant has met any other similar requirements as  
4 determined by the commissioner.

5 If the commissioner fails to make the findings, the commissioner  
6 shall not issue a license, and shall notify the applicant of the denial  
7 and the reasons for the denial. For purposes of this subsection, the  
8 level of offense of the crime and the status of any conviction,  
9 pardon, or expungement shall be determined by reference to the law  
10 of the jurisdiction where the case was prosecuted. In the event the  
11 jurisdiction does not use the term “felony,” “pardon,” or  
12 “expungement,” the terms shall include legally equivalent events.  
13 For purposes of paragraph (1) of this subsection, “experience in the  
14 mortgage servicing business” means paid experience in the:

15 (a) servicing of mortgage loans;

16 (b) accounting, receipt and processing of payments on behalf of  
17 mortgagees or creditors; or

18 (c) supervision of these activities, or any other relevant  
19 experience as determined by the commissioner.

20 b. An application for a license as a mortgage servicer or  
21 renewal of the license shall be filed with the department, in a form  
22 prescribed by the commissioner, and shall be accompanied by the  
23 fees required by section 7 of this act. The applicant shall, at a  
24 minimum, furnish to the department information concerning the  
25 identity of the applicant, any control person of the applicant, the  
26 qualified individual and any branch manager, including personal  
27 history and experience in a form prescribed by the commissioner,  
28 and information related to any administrative, civil or criminal  
29 findings by any governmental jurisdiction. The applicant shall  
30 notify the department of any change to the information submitted in  
31 connection with its most recent application for licensure not later  
32 than 15 days after the applicant has reason to know of the change.  
33 For the purpose of this subsection, evidence of experience of the  
34 qualified individual and any branch manager shall include:

35 (1) a statement specifying the duties and responsibilities of the  
36 person’s employment, the term of employment, including month  
37 and year, and the name, address and telephone number of a  
38 supervisor, employer or, if self-employed, a business reference; and

39 (2) if required by the commissioner, copies of W-2 forms, 1099  
40 tax forms or, if self-employed, 1120 corporate tax returns, signed  
41 letters from the employer on the employer’s letterhead verifying the  
42 person’s duties and responsibilities and term of employment  
43 including month and year, and, if the person is unable to provide the  
44 letters, other proof satisfactory to the commissioner that the person  
45 meets the experience requirement. The commissioner may conduct  
46 a criminal history records check of the applicant, any control person  
47 of the applicant, the qualified individual and any branch manager  
48 with supervisory authority at the office for which the license is  
49 sought and require the applicant to submit the fingerprints of those

1 persons as part of the application. The commissioner is authorized  
2 to exchange fingerprint data with and receive criminal history  
3 record information from the State Bureau of Identification in the  
4 Division of State Police and the Federal Bureau of Investigation  
5 consistent with applicable State and federal laws, rules and  
6 regulations, for the purposes of facilitating determinations  
7 concerning licensure eligibility for the applicant, any control person  
8 of the applicant, the qualified individual and any branch manager.  
9 The applicant shall bear the cost for the criminal history record  
10 background check, including all costs of administering and  
11 processing the check. The Division of State Police shall promptly  
12 notify the commissioner in the event any person who was the  
13 subject of a criminal history record background check pursuant to  
14 this section, is arrested for a crime or offense in this State after the  
15 date the background check was performed, whether the person is a  
16 prospective new licensee, or subsequently, a current license holder.

17 c. (1) The minimum standards for license renewal for a  
18 mortgage servicer shall include the following:

19 (a) the applicant continues to meet the minimum standards  
20 under subsection a. of this section <sup>1</sup>, including, but not limited to,  
21 the financial responsibility requirement of paragraph (3) of  
22 subsection a. of this section<sup>1</sup> ; and

23 (b) the mortgage servicer has paid all required fees for renewal  
24 of the license.

25 (2) The license of a mortgage servicer that fails to satisfy the  
26 minimum standards for license renewal shall expire. The  
27 commissioner may adopt procedures for the reinstatement of  
28 expired licenses. The commissioner may suspend a mortgage  
29 servicer license if the licensee is in violation of any provision of  
30 this act. After a license has been suspended pursuant to this section,  
31 the commissioner shall give the licensee notice of the suspension,  
32 pending proceedings for revocation or refusal to renew pursuant to  
33 sections 14 and 15 of this act and an opportunity for a hearing on  
34 the action and require the licensee to take or refrain from taking any  
35 action that, in the opinion of the commissioner, is necessary to  
36 effectuate the purposes of this act.

37 d. (1) Withdrawal of an application for a license filed under  
38 this section shall become effective upon receipt by the  
39 commissioner of a notice of intent to withdraw the application. The  
40 commissioner may deny a license up to one year after the effective  
41 date of withdrawal.

42 (2) If the license of a mortgage servicer expires due to the  
43 licensee's failure to renew, the commissioner may institute a  
44 revocation or suspension proceeding or issue an order suspending or  
45 revoking the license pursuant to subsection a. of section 14 of this  
46 act not later than one year after the date of the expiration.

47 e. The commissioner may deem an application for a license  
48 under this section abandoned if the applicant fails to respond to any  
49 request for information required under this act, or the regulations

1 adopted pursuant to this act. The commissioner shall notify the  
2 applicant that if the information is not submitted within 60 days  
3 from the date of the request, the application shall be deemed  
4 abandoned. An application filing fee paid prior to the date an  
5 application is deemed abandoned pursuant to this subsection shall  
6 not be refunded. Abandonment of an application pursuant to this  
7 subsection shall not preclude the applicant from submitting a new  
8 application for a license.

9  
10 5. (New section) At least annually, a mortgage servicer shall  
11 file with the commissioner the following information with respect  
12 to mortgages that it services in this State:

13 a. a current schedule of the ranges of costs and fees it charges  
14 mortgagors for its servicing-related activities;

15 b. a report in a form and format acceptable to the commissioner  
16 detailing the mortgage servicer's activities in the State, including:

17 (1) the number of residential mortgage loans the mortgage  
18 servicer is servicing; and

19 (2) the type and characteristics of the residential mortgage loans  
20 the mortgage servicer is servicing;

21 c. the number of serviced residential mortgage loans in default,  
22 along with a breakdown of 30, 60, and 90-days of delinquency;

23 d. a description of the mortgage servicer's loss mitigation  
24 activities, including details on workout arrangements undertaken;  
25 and

26 e. the number of foreclosures commenced.

27  
28 6. (New section) a. A mortgage servicer license shall not be  
29 transferable or assignable. A licensee shall not use any name other  
30 than its legal name or a fictitious name approved by the  
31 commissioner, provided the licensee shall not use its legal name if  
32 the commissioner disapproves use of the name. Any licensee who  
33 intends to permanently cease acting as a mortgage servicer at any  
34 time during a license period for any cause, including, but not  
35 limited to, bankruptcy or voluntary dissolution, shall file with the  
36 department a request to surrender the license for each office at  
37 which the licensee intends to cease to do business, not later than 15  
38 days after the date of the cessation. A surrender shall not be  
39 effective until accepted by the commissioner.

40 b. A mortgage servicer licensee may change the name of the  
41 licensee or address of any office specified on the most recent filing  
42 with the department if:

43 (1) at least 30 calendar days prior to the change, the licensee  
44 files the change with the department and, in the case of a main  
45 office or branch office, provides, directly to the commissioner, a  
46 bond rider or endorsement, or addendum, as applicable, to any bond  
47 or evidence of errors and omissions coverage on file with the  
48 commissioner that reflects the new name or address of the main  
49 office or branch office; and

1 (2) the commissioner does not disapprove the change, in  
2 writing, or request further information within the 30 day period.

3 c. The mortgage servicer licensee shall notify the department,  
4 in writing, not later than five business days after the licensee has  
5 reason to know of the occurrence of any of the following events:

6 (1) 'a material change of financial condition,' filing for  
7 bankruptcy, or the consummation of a corporate restructuring, of  
8 the licensee;

9 (2) filing of a criminal indictment against the licensee or  
10 receiving notification of the filing of any criminal felony indictment  
11 or felony conviction of any of the licensee's officers, directors,  
12 members, partners or shareholders owning ten percent or more of  
13 the outstanding stock;

14 (3) receiving notification of the institution of license denial,  
15 cease and desist, suspension or revocation procedures, or other  
16 formal or informal regulatory action by any governmental agency  
17 against the licensee and the reasons for the action;

18 (4) receiving notification of the initiation of any action by the  
19 Attorney General or the attorney general of any other state and the  
20 reasons for the action;

21 (5) suspension or termination of the licensee's status as an  
22 approved seller or servicer by the Federal National Mortgage  
23 Association, Federal Home Loan Mortgage Corporation or  
24 Government National Mortgage Association;

25 (6) receiving notification that certain servicing rights of the  
26 licensee will be rescinded or cancelled, and the reasons provided  
27 therefor;

28 (7) receiving notification of filing for bankruptcy of any of the  
29 licensee's officers, directors, members, partners or shareholders  
30 owning ten percent or more of the outstanding stock of the licensee;  
31 or

32 (8) receiving notification of the initiation of a class action  
33 lawsuit on behalf of consumers against the licensee that is related to  
34 the operation of the licensed business.

35

36 7. (New section) a. An initial mortgage servicer license shall  
37 expire at the close of business on December 31 of the year in which  
38 it is approved, except that any license that is approved on or after  
39 November 1 shall expire at the close of business on December 31 of  
40 the year following the year in which it is approved. An application  
41 for renewal of a license shall be filed between November 1 and  
42 December 31 of the year in which the license expires and a renewal  
43 license shall expire at the close of business on December 31 of the  
44 third year after the year in which it was approved. Each applicant  
45 for an initial license or renewal of a license as a mortgage servicer  
46 shall pay to the department any required fees or charges and a  
47 license fee of \$1,000. Each applicant for a renewal license shall pay  
48 to the department any required fees or charges and a license fee of  
49 \$3,000.

1       b. All fees paid pursuant to this section, including fees paid in  
2 connection with an application that is denied or withdrawn prior to  
3 the issuance of the license, shall be nonrefundable. A fee paid  
4 pursuant to this section shall not be prorated if the license is  
5 surrendered, revoked or suspended prior to the expiration of the  
6 period for which it was approved.

7  
8       8. (New section) a. A mortgage servicer applicant or licensee  
9 and any person exempt from mortgage servicer licensure pursuant  
10 to paragraph (4) of subsection b. of section 3 of this act shall file  
11 with the commissioner:

12       (1) a surety bond, written by a surety authorized to write the  
13 bonds in this State, covering its main office and any branch office  
14 from which it acts as mortgage servicer, in a penal sum of \$100,000  
15 per office location in accordance with subsection b. of this section;

16       (2) a fidelity bond, written by a surety authorized to write the  
17 bonds in this State, in accordance with the requirements of  
18 subsection c. of this section; and

19       (3) evidence of errors and omissions coverage, written by an  
20 entity authorized to write the coverage in this State, in accordance  
21 with the requirements of subsection c. of this section. A mortgage  
22 servicer licensee and a person otherwise exempt from mortgage  
23 servicer licensure pursuant to paragraph (4) of subsection b. of  
24 section 3 of this act shall not act as a mortgage servicer in this State  
25 without maintaining the surety bond, fidelity bond and errors and  
26 omissions coverage required by this section.

27       b. The surety bond required by subsection a. of this section  
28 shall be:

29       (1) in a form approved by the Attorney General; and

30       (2) conditioned upon the mortgage servicer licensee or person  
31 exempt from mortgage servicer licensure pursuant to paragraph (4)  
32 of subsection b. of section 3 of this act performing any and all  
33 written agreements or commitments with or for the benefit of  
34 mortgagors and mortgagees, accounting for all funds received from  
35 a mortgagor or mortgagee in the person's capacity as a mortgage  
36 servicer, and conducting the mortgage business consistent with the  
37 provisions of this act. Any mortgagor damaged by the failure of a  
38 mortgage servicer licensee or person exempt from mortgage  
39 servicer licensure pursuant to paragraph (4) of subsection b. of  
40 section 3 of this act to perform any written agreements or  
41 commitments, or by the wrongful conversion of funds paid by a  
42 mortgagor to the licensee or person, may proceed on the bond  
43 against the principal or surety thereon, or both, to recover damages.  
44 The commissioner may proceed on the bond against the principal or  
45 surety on the bond, or both, to collect any appropriate civil penalty.  
46 The proceeds of the bond, even if commingled with other assets of  
47 the principal, shall be deemed by operation of law to be held in trust  
48 for the benefit of claimants against the principal in the event of  
49 bankruptcy of the principal and shall be immune from attachment



1 by creditors and judgment creditors. The surety bond shall run  
2 concurrently with the period of the license for the main office of the  
3 mortgage servicer or residential mortgage lender and the aggregate  
4 liability under the bond shall not exceed the penal sum of the bond.  
5 The principal shall notify the commissioner of the commencement  
6 of an action on the bond. When an action is commenced on a  
7 principal's bond, the commissioner may require the filing of a new  
8 bond and immediately on recovery on any action on the bond, the  
9 principal shall file a new bond.

10 c. The fidelity bond and errors and omissions coverage  
11 required by subsection a. of this section shall name the Department  
12 of Banking and Insurance as an additional loss payee on drafts the  
13 surety issues to pay for covered losses directly or indirectly  
14 incurred by mortgagors of residential mortgage loans serviced by  
15 the mortgage servicer. The fidelity bond shall cover losses arising  
16 from dishonest and fraudulent acts, embezzlement, misplacement,  
17 forgery and similar events committed by employees of the mortgage  
18 servicer. The errors and omissions coverage shall cover losses  
19 arising from negligence, errors and omissions by the mortgage  
20 servicer with respect to the payment of real estate taxes and special  
21 assessments, hazard and flood insurance or the maintenance of  
22 mortgage and guaranty insurance. The fidelity bond and errors and  
23 omissions coverage shall each be in the following principal amounts  
24 based on the mortgage servicer's volume of servicing activity most  
25 recently reported to the department:

26 (1) If the amount of the residential mortgage loans serviced is  
27 \$100,000,000 or less, the principal amount shall be \$300,000; or

28 (2) If the amount of the loans exceeds \$100,000,000, the  
29 principal amount shall be \$300,000 plus:

30 (a) three-twentieths of one percent of the amount of residential  
31 mortgage loans serviced greater than \$100,000,000 but less than or  
32 equal to \$500,000,000;

33 (b) plus one-eighth of one percent of the amount of residential  
34 mortgage loans serviced greater than \$500,000,000 but less than or  
35 equal to \$100,000,000,000; and

36 (c) plus one-tenth of one percent of the amount of residential  
37 mortgage loans serviced greater than \$100,000,000,000.

38 The fidelity bond and errors and omissions coverage may  
39 provide for a deductible amount not to exceed the greater of  
40 \$100,000 or five percent of the principal amount.

41 d. A surety shall have the right to cancel the surety bond,  
42 fidelity bond and errors and omissions coverage required by this  
43 section at any time by a written notice to the principal stating the  
44 date cancellation shall take effect. The notice shall be sent by  
45 certified mail to the principal at least 30 days prior to the date of  
46 cancellation. A surety bond, fidelity bond or errors and omissions  
47 coverage shall not be cancelled unless the surety notifies the  
48 commissioner, in writing, not less than 30 days prior to the effective  
49 date of cancellation. After receipt of the notification from the

1 surety, the commissioner shall give written notice to the principal of  
2 the date the cancellation shall take effect. The commissioner shall  
3 suspend the license of a mortgage servicer on that date. A  
4 suspension or inactivation shall not occur if, prior to the date that  
5 the bond or errors and omissions coverage cancellation shall take  
6 effect:

7 (1) the principal submits a letter of reinstatement of the bond or  
8 errors and omissions coverage, or a new bond or errors and  
9 omissions policy; or

10 (2) the mortgage servicer licensee has ceased business in this  
11 State and has surrendered all licenses in accordance with section 5  
12 of this act. After a mortgage servicer license has been suspended  
13 pursuant to this section, the commissioner shall give the licensee  
14 notice of the suspension, pending proceedings for revocation or  
15 refusal to renew pursuant to section 14 of this act and an  
16 opportunity for a hearing on the action and require the licensee to  
17 take or refrain from taking the action as in the opinion of the  
18 commissioner will effectuate the purposes of this section. A person  
19 licensed as a residential mortgage lender in this State acting as a  
20 mortgage servicer from a location licensed as a main office or  
21 branch office shall cease to be exempt from mortgage servicer  
22 licensing requirements in this State upon cancellation of any surety  
23 bond, fidelity bond or errors and omissions coverage required by  
24 this section.

25 e. If the commissioner finds that the financial condition of a  
26 mortgage servicer or residential mortgage lender licensee so  
27 requires, as evidenced by the reduction of tangible net worth,  
28 financial losses or potential losses as a result of a violation of this  
29 act, the commissioner may require one or more additional bonds  
30 meeting the standards set forth in this section. The licensee shall  
31 file any the additional bonds not later than ten days after receipt of  
32 the commissioner's written notice of the requirement. A mortgage  
33 servicer or residential mortgage lender licensee shall file, as the  
34 commissioner may require, any bond rider or endorsement or  
35 addendum, as applicable, to any bond or evidence of errors and  
36 omissions coverage on file with the commissioner to reflect any  
37 changes necessary to maintain the surety bond, fidelity bond and  
38 errors and omissions coverage required by this section.

39  
40 9. (New section) a. A mortgage servicer licensee and person  
41 exempt from licensure pursuant to paragraph (4) of subsection b. of  
42 section 3 of this act shall maintain adequate records of each  
43 residential mortgage loan transaction at the office named in the  
44 mortgage servicer or residential mortgage lender license, or, if  
45 requested by the commissioner, shall make the records available at  
46 the office or send the records to the commissioner by registered or  
47 certified mail, return receipt requested, or by any express delivery  
48 carrier that provides a dated delivery receipt, not later than five  
49 business days after requested by the commissioner to do so. Upon

1 request, the commissioner may grant a licensee additional time to  
2 make the records available or send them to the commissioner. The  
3 records shall provide the following information:

4 (1) a loan history for residential mortgage loans upon which  
5 payments are received or made by the mortgage servicer, itemizing  
6 the amount and date of each payment and the unpaid balance at all  
7 times;

8 (2) the original or an exact copy of the note, residential  
9 mortgage or other evidence of indebtedness;

10 (3) the name and address of the residential mortgage lender,  
11 and mortgage broker, if any, involved in the residential mortgage  
12 loan transaction;

13 (4) copies of any disclosures or notifications provided to the  
14 mortgagor required by State or federal law;

15 (5) a copy of any bankruptcy plan approved in a proceeding  
16 filed by the mortgagor or a co-owner of the property subject to the  
17 residential mortgage loan;

18 (6) a communications log that documents all verbal  
19 communications with the mortgagor or the mortgagor's  
20 representative; and

21 (7) a copy of all notices sent to the mortgagor related to any  
22 foreclosure proceeding filed against the encumbered property.

23 b. Every mortgage servicer licensee and person exempt from  
24 licensure pursuant to paragraph (4) of subsection b. of section 3 of  
25 this act shall retain the records of each residential mortgage loan  
26 serviced for not less than two years following the final payment on  
27 the residential mortgage loan, or the assignment of the residential  
28 mortgage loan, whichever occurs first, or a longer period as may be  
29 required by any other provision of law. Every mortgage servicer  
30 licensee and person exempt from licensure pursuant to paragraph  
31 (4) of subsection b. of section 3 of this act shall keep and use in its  
32 business books, accounts and records that will enable the  
33 commissioner to determine whether the mortgage servicer is  
34 complying with the provisions of this act.

35

36 10. (New section) Upon assignment of servicing rights on a  
37 residential mortgage loan, the mortgage servicer shall disclose to  
38 the mortgagor:

39 a. any notice required by the "Real Estate Settlement  
40 Procedures Act of 1974" (12 U.S.C. s.2601 et seq.), and the  
41 regulations promulgated thereunder, and within the time periods  
42 prescribed therein; and

43 b. a schedule of the ranges and categories of its costs and fees  
44 for its servicing-related activities, which shall comply with State  
45 and federal law and, if the disclosure is made by a mortgage  
46 servicer licensee, shall not exceed those reported to the  
47 commissioner in accordance with section 5 of this act.

1       11. (New section) a. A mortgage servicer shall comply with all  
2 applicable federal laws and regulations relating to mortgage loan  
3 servicing, including, but not limited to:

4       (1) the “Real Estate Settlement Procedures Act of 1974” (12  
5 U.S.C. s.2601 et seq.); and

6       (2) the “Truth-in-Lending Act” (15 U.S.C. s.1601 et seq.).

7       b. In addition to any other remedies provided by law, a  
8 violation of any the federal law or regulation shall be deemed a  
9 violation of this section and a basis upon which the commissioner  
10 may take enforcement action pursuant to section 14 of this act.

11

12       12. (New section) a. A mortgage servicer shall maintain and  
13 keep current a schedule of fees that it charges mortgagors for its  
14 servicing-related activities. The schedule shall identify each fee,  
15 provide a plain English explanation of the fee and state the amount  
16 of the fee or range of amounts or, if there is no standard fee, how  
17 the fee is calculated or determined. A mortgage servicer shall make  
18 its schedule available to the mortgagor or the mortgagor’s  
19 authorized representative upon request.

20       b. A mortgage servicer shall not impose any late fee or  
21 delinquency charge when the only delinquency is attributable to late  
22 fees or delinquency charges assessed on an earlier payment, and the  
23 payment is otherwise a full payment for the applicable period and is  
24 paid on its due date or within any applicable grace period. Late  
25 charges shall not be:

26       (1) based on an amount greater than the past due amount;

27       (2) collected from the escrow account or from escrow surplus  
28 without the approval of the mortgagor; or

29       (3) deducted from any regular payment.

30

31       13. (New section) A mortgage servicer shall not:

32       a. directly or indirectly employ any scheme, device or artifice  
33 to defraud or mislead mortgagors or mortgagees or to defraud any  
34 person;

35       b. engage in any unfair or deceptive practice toward any person  
36 or misrepresent or omit any material information in connection with  
37 the servicing of a residential mortgage loan, including, but not  
38 limited to, misrepresenting the amount, nature or terms of any fee  
39 or payment due or claimed to be due on a residential mortgage loan,  
40 the terms and conditions of the servicing agreement or the  
41 mortgagor’s obligations under the residential mortgage loan;

42       c. obtain property by fraud or misrepresentation;

43       d. knowingly misapply or recklessly apply residential mortgage  
44 loan payments to the outstanding balance of a residential mortgage  
45 loan;

46       e. knowingly misapply or recklessly apply payments to escrow  
47 accounts;

48       f. place hazard, homeowner’s or flood insurance on the  
49 mortgaged property when the mortgage servicer knows or has

- 1 reason to know that the mortgagor has an effective policy for the  
2 insurance;
- 3 g. knowingly or recklessly provide inaccurate information to a  
4 credit bureau, thereby harming a mortgagor's creditworthiness;
- 5 h. fail to report both the favorable and unfavorable payment  
6 history of the mortgagor to a nationally recognized consumer credit  
7 bureau at least annually if the mortgage servicer regularly reports  
8 information to a credit bureau;
- 9 i. collect private mortgage insurance beyond the date for which  
10 private mortgage insurance is required;
- 11 j. fail to issue a release of mortgage in accordance with the  
12 provisions of P.L.1975, c.137 (C.46:18-11.2 et seq.);
- 13 k. fail to provide written notice to a mortgagor upon taking  
14 action to place hazard, homeowner's or flood insurance on the  
15 mortgaged property, including a clear and conspicuous statement of  
16 the procedures by which the mortgagor may demonstrate that the  
17 mortgagor has the required insurance coverage and by which the  
18 mortgage servicer shall terminate the insurance coverage placed by  
19 it and refund or cancel any insurance premiums and related fees  
20 paid by or charged to the mortgagor;
- 21 l. place hazard, homeowner's, or flood insurance on a  
22 mortgaged property, or require a mortgagor to obtain or maintain  
23 that insurance, in excess of the replacement cost of the  
24 improvements on the mortgaged property as established by the  
25 property insurer;
- 26 m. fail to provide to the mortgagor a refund of unearned  
27 premiums paid by a mortgagor or charged to the mortgagor for  
28 hazard, homeowner's, or flood insurance placed by a mortgagee or  
29 the mortgage servicer if the mortgagor provides reasonable proof  
30 that the mortgagor has obtained coverage so that the forced  
31 placement insurance is no longer necessary and the property is  
32 insured. If the mortgagor provides reasonable proof that no lapse in  
33 coverage occurred so that the forced placement is not necessary, the  
34 mortgage servicer shall promptly refund the entire premium;
- 35 n. require any amount of funds to be remitted by means more  
36 costly to the mortgagor than a bank or certified check or attorney's  
37 check from an attorney's account to be paid by the mortgagor;
- 38 o. refuse to communicate with an authorized representative of  
39 the mortgagor who provides a written authorization signed by the  
40 mortgagor, provided the mortgage servicer may adopt procedures  
41 reasonably related to verifying that the representative is in fact  
42 authorized to act on behalf of the mortgagor;
- 43 p. conduct any business covered by this act, without holding a  
44 valid license as required under this act, or assist or aid and abet any  
45 person in the conduct of business without a valid license as required  
46 under this act; or
- 47 q. negligently make any false statement or knowingly and  
48 willfully make any omission of a material fact in connection with  
49 any information or reports filed with a governmental agency or the

1 department or in connection with any investigation conducted by  
2 the commissioner or another governmental agency.

3  
4 14. (New section) a. The commissioner shall have the authority  
5 to conduct investigations and examinations as follows:

6 (1) For purposes of initial licensing, license renewal, license  
7 suspension, license conditioning, license revocation or termination,  
8 or general or specific inquiry or investigation to determine  
9 compliance with this act, the commissioner may access, receive and  
10 use any books, accounts, records, files, documents, information or  
11 evidence including, but not limited to:

12 (a) criminal, civil and administrative history information;

13 <sup>1</sup>(b) financial statements and any other records of financial  
14 condition of the licensee, any control person of the licensee, and  
15 any business entity exerting control over the licensee;<sup>1</sup>

16 <sup>1</sup>**[(b)]** (c)<sup>1</sup> personal history and experience information,  
17 including independent credit reports obtained from a consumer  
18 reporting agency described in Section 603(p) of the “Fair Credit  
19 Reporting Act” (15 U.S.C. 1681a(p)); and

20 <sup>1</sup>**[(c)]** (d)<sup>1</sup> any other documents, information or evidence the  
21 commissioner deems relevant to the inquiry or investigation  
22 regardless of the location, possession, control or custody of the  
23 documents, information or evidence; and

24 (2) For the purposes of investigating violations or complaints  
25 arising under this act, or for the purposes of examination, the  
26 commissioner may review, investigate, or examine any mortgage  
27 servicer licensee or person subject to the act as often as necessary in  
28 order to carry out the purposes of the act. The commissioner may  
29 direct, subpoena, or order the attendance of and examine under oath  
30 all persons whose testimony may be required about the residential  
31 mortgage loans or the business or subject matter of any  
32 examination or investigation, and may direct, subpoena or order the  
33 person to produce books, accounts, records, files and any other  
34 documents the commissioner deems relevant to the inquiry.

35 b. A mortgage servicer licensee or any person subject to this  
36 act shall make or compile reports or prepare other information as  
37 directed by the commissioner in order to carry out the purposes of  
38 this section including accounting compilations, information lists  
39 and data concerning residential mortgage loan transactions in a  
40 format prescribed by the commissioner or any other information the  
41 commissioner deems necessary to carry out the purposes of this act.

42 c. In making an examination or investigation authorized by this  
43 section, the commissioner may control access to any documents and  
44 records of the mortgage servicer licensee or person under  
45 examination or investigation. The commissioner may take  
46 possession of the documents and records or place a person in  
47 exclusive charge of the documents and records in the place where  
48 they are usually kept. During the period of control, no person shall

1 remove or attempt to remove any of the documents and records  
2 except pursuant to a court order or with the consent of the  
3 commissioner. Unless the commissioner has reasonable grounds to  
4 believe the documents or records of the mortgage servicer licensee  
5 or person have been, or are at risk of being, altered or destroyed for  
6 purposes of concealing a violation of this act, the mortgage servicer  
7 licensee or owner of the documents and records shall have access to  
8 the documents or records as necessary to conduct its ordinary  
9 business affairs.

10 d. In order to carry out the purposes of this section, the  
11 commissioner may:

12 (1) retain attorneys, accountants or other professionals and  
13 specialists as examiners, auditors or investigators to conduct or  
14 assist in the conduct of examinations or investigations;

15 (2) enter into agreements or relationships with other government  
16 officials or regulatory associations in order to improve efficiencies  
17 and reduce regulatory burdens by sharing resources, standardized or  
18 uniform methods or procedures, and documents, records,  
19 information or evidence obtained under this section;

20 (3) use, hire, contract or employ public or privately available  
21 analytical departments, methods or software to examine or  
22 investigate the mortgage servicer licensee or person subject to this  
23 act;

24 (4) accept and rely on examination or investigation reports made  
25 by other government officials, within or without this State; and

26 (5) accept audit reports made by an independent certified public  
27 accountant for the mortgage servicer licensee or person subject to  
28 this act, in the course of that part of the examination covering the  
29 same general subject matter as the audit and may incorporate the  
30 audit report in the report of examination, report of investigation or  
31 other writing of the commissioner.

32 e. The authority of this section shall remain in effect, whether  
33 the mortgage servicer licensee or person subject to this act, acts or  
34 claims to act under any licensing or registration law of this State, or  
35 claims to act without the authority.

36 f. A mortgage servicer licensee or person subject to  
37 investigation or examination under this section shall not knowingly  
38 withhold, abstract, remove, mutilate, destroy or secrete any books,  
39 records, computer records or other information.

40

41 15. (New section) a. The commissioner may suspend, revoke or  
42 refuse to renew any mortgage servicer license or take any other  
43 action for any reason which would be sufficient grounds for the  
44 commissioner to deny an application for the license under section 4  
45 of this act, or if the commissioner finds that the licensee, any  
46 control person of the licensee, the qualified individual or any  
47 branch manager with supervisory authority, trustee, employee or  
48 agent of the licensee has done any of the following:

49 (1) made any material misstatement in the application;

1 (2) committed any fraud or misrepresentation or  
2 misappropriated funds;

3 (3) <sup>1</sup>become insolvent;

4 (4)<sup>1</sup> violated any of the provisions of this act or of any  
5 regulations adopted pursuant thereto, or any other law or regulation  
6 applicable to the conduct of its business; or

7 <sup>1</sup>~~[(4)]~~ (5)<sup>1</sup> failed to perform any agreement with a mortgagee or  
8 a mortgagor.

9 b. Whenever it appears to the commissioner that any person  
10 has violated, is violating, or is about to violate any of the provisions  
11 of this act or of any regulations adopted pursuant thereto, or any  
12 licensee has failed to perform any agreement with a mortgagee or  
13 mortgagor, committed any fraud, made any misrepresentation or  
14 misappropriated funds, the commissioner may:

15 (1) issue an order directing a person or licensee to cease and  
16 desist from engaging in any act or practice that is in violation of this  
17 act; <sup>1</sup>~~and~~<sup>1</sup>

18 (2) <sup>1</sup>issue an order directing a person or licensee to perform  
19 corrective actions; and

20 (3)<sup>1</sup> bring an action in any court of competent jurisdiction to  
21 enjoin the acts or practices and to enforce compliance with any  
22 provision of this act.

23

24 <sup>1</sup>16. (New section) The commissioner may order that any  
25 person who has been found to have knowingly violated any  
26 provision of this act, or of the rules and regulations issued pursuant  
27 hereto, and has thereby caused financial harm to consumers, be  
28 barred from acting as a residential mortgage servicer, residential  
29 mortgage lender, residential mortgage broker, or mortgage loan  
30 originator, or a stockholder, an officer, director, partner or other  
31 owner, or an employee of a licensee, or acting in any other capacity  
32 pursuant to this act. A violation of this final order shall be  
33 considered a crime of the third degree.<sup>1</sup>

34

35 <sup>1</sup>17. (New section) The commissioner may impose a civil  
36 penalty not exceeding \$25,000 on any person for a violation of this  
37 act. Each violation of this act, including any order, rule or  
38 regulation made or issued pursuant to this act, shall constitute a  
39 separate offense. Additionally, each violation of this act which  
40 constitutes a knowing violation shall be considered a crime of the  
41 third degree.<sup>1</sup>

42

43 <sup>1</sup>18. (New section) The rights, remedies and prohibitions  
44 accorded by the provisions of this act are in addition to and  
45 cumulative of any right, remedy or prohibition accorded by the  
46 common law or any statute of this State and nothing contained  
47 herein shall be construed to deny, abrogate, or impair any common  
48 law or statutory right, remedy or prohibition. The Attorney General



1 and the Division of Consumer Affairs in the Department of Law and  
2 Public Safety shall continue to have the authority to enforce civil  
3 and criminal violations of the consumer fraud act, P.L.1960, c.39  
4 (C.56:8-1 et seq.), or any other applicable law, rule or regulation in  
5 connection with the activities of mortgage servicers.<sup>1</sup>  
6

7 <sup>1</sup>**[16.] 19.**<sup>1</sup> The provisions of sections 3 through 12 of this act  
8 shall not apply to:

9 (1) a person exempt from licensure as a residential mortgage  
10 lender pursuant to the "New Jersey Residential Mortgage Lending  
11 Act," P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89), while  
12 servicing residential mortgage loans made pursuant to the  
13 exemption;

14 (2) a person servicing five or fewer residential mortgage loans  
15 within any period of twelve consecutive months;

16 (3) any agency of the federal government, any state or municipal  
17 government or any quasi-governmental agency servicing residential  
18 mortgage loans under the specific authority of the laws of any state  
19 or the United States; and

20 (4) a person exempt from licensure as a mortgage servicer  
21 pursuant to paragraphs (1), (2), and (3) of subsection b. of section 3  
22 of this act.  
23

24 <sup>1</sup>**[17.] 20.**<sup>1</sup> The Commissioner of Banking and Insurance may  
25 adopt rules and regulations, pursuant to the "Administrative  
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), including  
27 any fines or penalties, necessary to effectuate the provisions of this  
28 act.  
29

30 <sup>1</sup>21. Section 2 of P.L.2005, c.199 (C.17:1C-34) is amended to  
31 read as follows:

32 2. For the purposes of this act:

33 "Assessment" means the assessment imposed pursuant to section  
34 3 of this act for the special functions of the division as provided in  
35 that section.

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

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

39 "Depository institution" means any entity holding a state charter  
40 for a bank, savings bank, savings and loan association or credit  
41 union, irrespective of whether the entity accepts deposits.

42 "Division" means the Division of Banking in the Department of  
43 Banking and Insurance.

44 "Other financial entity" means a person who is licensed or  
45 registered pursuant to: the "New Jersey Consumer Finance  
46 Licensing Act," sections 1 through 49 of P.L.1996, c.157  
47 (C.17:11C-1 et seq.); the "New Jersey Residential Mortgage  
48 Lending Act," sections 1 through 39 of P.L.2009, c.53 (C.17:11C-

1 51 et seq.), other than a financial entity with respect to the payment  
2 of required fees to the Nationwide Mortgage Licensing System and  
3 Registry as set forth by that nationwide system and registry; "The  
4 Check Cashers Regulatory Act of 1993," P.L.1993, c.383  
5 (C.17:15A-30 et seq.); the "New Jersey Money Transmitters Act,"  
6 P.L.1998, c.14 (C.17:15C-1 et seq.); the "Insurance Premium  
7 Finance Company Act," P.L.1968, c.221 (C.17:16D-1 et seq.); the  
8 "Retail Installment Sales Act of 1960," P.L.1960, c.40 (C.17:16C-1  
9 et seq.); the "Door-to-Door Retail Installment Sales Act of 1968,"  
10 P.L.1968, c.223 (C.17:16C-61.1 et seq.); the "Home Repair  
11 Financing Act," P.L.1960, c.41 (C.17:16C-62 et seq.); the "Door-to-  
12 Door Home Repair Sales Act of 1968," P.L.1968, c.224 (C.17:16C-  
13 95 et seq.); P.L.1979, c.16 (C.17:16G-1 et seq.); the "Foreclosure  
14 Rescue Fraud Prevention Act," P.L.2011, c.146 (C.46:10B-53 et  
15 al.); the "Mortgage Servicers Licensing Act," P.L. , c. (C. )  
16 (pending before the Legislature as this bill); or the "pawnbroking  
17 law," R.S.45:22-1 et seq.

18 "Nationwide Mortgage Licensing System and Registry" means  
19 the mortgage licensing system developed and maintained by the  
20 Conference of State Bank Supervisors and the American  
21 Association of Residential Mortgage Regulators, or their  
22 successors, and utilized in this State pursuant to the provisions of  
23 the "New Jersey Residential Mortgage Lending Act," sections 1  
24 through 39 of P.L.2009, c.53 (C.17:11C-51 et seq.).

25 "Regulated entity" means a depository institution, other financial  
26 entity or person chartered, licensed or registered by the Division of  
27 Banking or who should be chartered, licensed or registered.<sup>1</sup>  
28 (cf: P.L.2011, c.146, s.17)  
29

30 <sup>1</sup>**[18.] 22.**<sup>1</sup> This act shall take effect on the 90th day next  
31 following enactment.  
32  
33  
34

35 \_\_\_\_\_  
36 "Mortgage Servicers Licensing Act."