

SENATE, No. 3416

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JANUARY 31, 2019

Sponsored by:

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Senator TROY SINGLETON

District 7 (Burlington)

Senator DAWN MARIE ADDIEGO

District 8 (Atlantic, Burlington and Camden)

SYNOPSIS

Clarifies that “New Jersey Residential Mortgage Lending Act” applies to certain out-of-State persons and entities involved in residential mortgage lending in the State.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning licensing and other requirements for residential
2 mortgage lending and amending P.L.2009, c.53

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

6
7 1. Section 4 of P.L.2009, c.53 (C.17:11C-54) is amended to
8 read as follows:

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

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

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

24 (2) No person shall be issued or hold a license as a residential
25 mortgage lender or residential mortgage broker unless one officer,
26 director, partner, owner or principal is a qualified individual
27 licensee. The commissioner may, by regulation, require a licensed
28 residential mortgage lender or broker to employ additional qualified
29 individual licensees to properly supervise the business licensee in
30 its branch offices. If a qualified individual licensee allows his
31 license to lapse or for some other reason is no longer affiliated with
32 the business licensee, the business licensee shall notify the
33 commissioner within 10 days, and shall appoint another qualified
34 individual licensee within 90 days or a longer period as permitted
35 by the commissioner.

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

1 b. For qualified individual licensees:

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

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

16 c. For mortgage loan originators:

17 (1) (a) No individual shall act as a mortgage loan originator
18 without first obtaining a license or transitional license under this
19 act.

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

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

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

44 d. For exempt companies:

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

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

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

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

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

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

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

34 (3) A registered exempt company shall:

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

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

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

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

7 e. The provisions of the “New Jersey Residential Mortgage
8 Lending Act,” sections 1 through 39 of P.L.2009, c.53 (C.17:11C-
9 51 through C.17:11C-89) shall apply to residential mortgage
10 lenders, residential mortgage brokers, mortgage loan originators,
11 and any other persons or entities that are located out-of-State,
12 provided that they are otherwise required to be licensed pursuant to
13 the provisions of that act in the State.

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

15
16 2. This act shall take effect immediately.

17 18 19 STATEMENT

20
21 This bill clarifies that the provisions of the “New Jersey
22 Residential Mortgage Lending Act,” sections 1 through 39 of
23 P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89) also apply to
24 residential mortgage lenders, residential mortgage brokers,
25 mortgage loan originators, and other persons and entities that are
26 located out-of-State, provided that they are otherwise required to be
27 licensed pursuant to the provisions of that act.

28 The “New Jersey Residential Mortgage Lending Act” protects
29 New Jersey consumers and the stability of New Jersey’s economy
30 by applying certain standards for the licensing and business
31 practices of residential mortgage lenders, brokers, and loan
32 originators and by providing the Department of Banking and
33 Insurance broad administrative authority to oversee the operation of
34 the mortgage lending industry in the State.