

[Second Reprint]

**SENATE, No. 3416**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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INTRODUCED JANUARY 31, 2019

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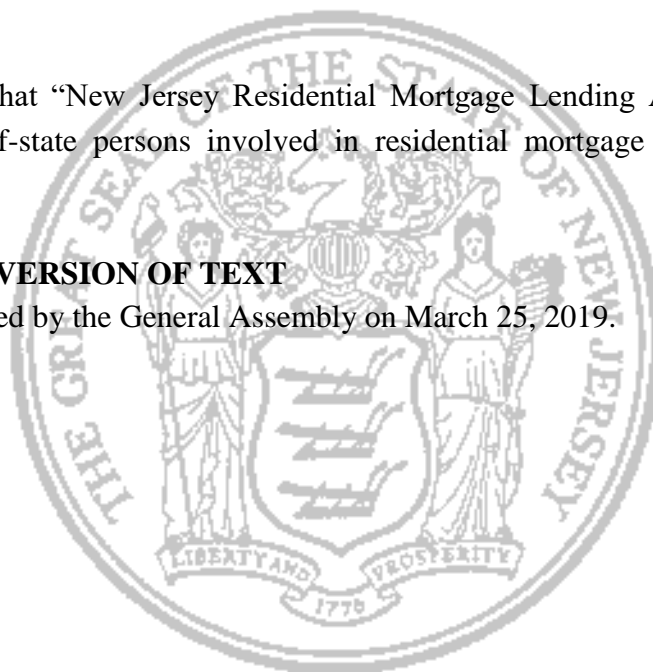
**Assemblyman McKeon**

**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 amended by the General Assembly on March 25, 2019.



**(Sponsorship Updated As Of: 3/26/2019)**

1 AN ACT concerning licensing and other requirements for residential  
2 mortgage lending <sup>1,1</sup> and amending P.L.2009, c.53 <sup>1</sup>and  
3 P.L.1995, c.244<sup>1</sup> .  
4

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

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

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

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

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

25 (2) No person shall be issued or hold a license as a residential  
26 mortgage lender or residential mortgage broker unless one officer,  
27 director, partner, owner or principal is a qualified individual licensee.  
28 The commissioner may, by regulation, require a licensed residential  
29 mortgage lender or broker to employ additional qualified individual  
30 licensees to properly supervise the business licensee in its branch  
31 offices. If a qualified individual licensee allows his license to lapse or  
32 for some other reason is no longer affiliated with the business licensee,  
33 the business licensee shall notify the commissioner within 10 days,  
34 and shall appoint another qualified individual licensee within 90 days  
35 or a longer period as permitted 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 Consumer  
41 Finance Licensing Act" pursuant to P.L.2009, c.53 (C.17:11C-51 et  
42 al.), shall continue to engage in any activities for which a license was  
43 previously issued, and henceforth act as a residential mortgage lender

**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>Senate SCU committee amendments adopted February 7, 2019.

<sup>2</sup>Assembly floor amendments adopted March 25, 2019.

1 or residential mortgage broker without first obtaining a license under  
2 this act.

3 b. For qualified individual licensees:

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

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

17 c. For mortgage loan originators:

18 (1) (a) No individual shall act as a mortgage loan originator  
19 without first obtaining a license or transitional license under this 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 as a  
22 mortgage loan originator unless employed as an originator by one, and  
23 not more than one, business licensee, and is subject to the direct  
24 supervision and control of that licensee, employed by an exempt  
25 company, or who is under a written agreement with and sponsored in  
26 the Nationwide Mortgage Licensing System by one, and not more than  
27 one, person exempt from licensing requirements and registered with  
28 the department under subsection a. of section 5 of P.L.2009, c.53  
29 (C.17:11C-55), and is subject to the direct supervision and control of  
30 that exempt person.

31 (2) No individual shall act as a loan processor or underwriter who  
32 is an independent contractor or employed by an independent contractor  
33 without first obtaining a mortgage loan originator license under this  
34 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 Consumer  
39 Finance Licensing Act" pursuant to P.L.2009, c.53 (C.17:11C-51 et  
40 al.), shall continue to engage in any activities for which a registration  
41 was previously issued, and henceforth act as a mortgage loan  
42 originator without first obtaining a license under this act.

43 d. For exempt companies:

44 (1) No person shall qualify for registration as an exempt company  
45 unless the person is in the business of mortgage loan origination solely  
46 by virtue of its performance of loan processing or underwriting  
47 functions. The commissioner shall have the authority to adopt rules in  
48 accordance with the "Administrative Procedure Act," P.L.1968, c.410

1 (C.52:14B-1 et seq.) specifying additional criteria on the basis of  
2 which a person in the business of mortgage loan origination solely by  
3 virtue of its performance of loan processing or underwriting functions  
4 may qualify for registration as an exempt company.

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

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

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

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

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

31 (3) A registered exempt company shall:

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

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

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

46 (d) Employ at least one individual who is licensed as a mortgage  
47 loan originator who shall not engage in the origination of mortgage  
48 loans under P.L.2018, c.108 and shall be assigned supervision and

1 instruction duties with respect to individuals employed as loan  
2 processors or loan underwriters as defined in section 3 of P.L.2009,  
3 c.53 (C.17:11C-53).

4 e. The provisions of the “New Jersey Residential Mortgage  
5 Lending Act,” sections 1 through 39 of P.L.2009, c.53 (C.17:11C-51  
6 through C.17:11C-89) shall <sup>2</sup>also<sup>2</sup> apply to residential mortgage  
7 lenders, residential mortgage brokers, mortgage loan originators, and  
8 <sup>2</sup>[any]<sup>2</sup> other persons <sup>2</sup>[or entities]<sup>2</sup> that are located out-of-State,  
9 provided <sup>2</sup>[that]<sup>2</sup> they are otherwise required to be licensed pursuant  
10 to the provisions of <sup>2</sup>[that] the<sup>2</sup> act in the State.

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

12

13 <sup>1</sup>2. Section 4 of P.L.1995, c.244 (C.2A:50-56) is amended to read  
14 as follows:

15 4. a. Upon failure to perform any obligation of a residential  
16 mortgage by the residential mortgage debtor and before any residential  
17 mortgage lender may accelerate the maturity of any residential  
18 mortgage obligation and commence any foreclosure or other legal  
19 action to take possession of the residential property which is the  
20 subject of the mortgage, the residential mortgage lender shall give the  
21 residential mortgage debtor notice of such intention at least 30 days in  
22 advance of such action as provided in this section.

23 b. Notice of intention to take action as specified in subsection a.  
24 of this section shall be in writing, sent to the debtor by registered or  
25 certified mail, return receipt requested, at the debtor's last known  
26 address, and, if different, to the address of the property which is the  
27 subject of the residential mortgage. The notice is deemed to have been  
28 effectuated on the date the notice is delivered in person or mailed to  
29 the party.

30 c. The written notice shall clearly and conspicuously state in a  
31 manner calculated to make the debtor aware of the situation:

32 (1) the particular obligation or real estate security interest;

33 (2) the nature of the default claimed;

34 (3) the right of the debtor to cure the default as provided in section  
35 5 of **[this act]** P.L.1995, c.244 (C.2A:50-57);

36 (4) what performance, including what sum of money, if any, and  
37 interest, shall be tendered to cure the default as of the date specified  
38 under paragraph (5) of this subsection c.;

39 (5) the date by which the debtor shall cure the default to avoid  
40 initiation of foreclosure proceedings, which date shall not be less than  
41 30 days after the date the notice is effective, and the name and address  
42 and phone number of a person to whom the payment or tender shall be  
43 made;

44 (6) that if the debtor does not cure the default by the date specified  
45 under paragraph (5) of this subsection c., the lender may take steps to  
46 terminate the debtor's ownership in the property by commencing a  
47 foreclosure suit in a court of competent jurisdiction;

1 (7) that if the lender takes the steps indicated pursuant to paragraph  
2 (6) of this subsection c., a debtor shall still have the right to cure the  
3 default pursuant to section 5 of **[this act]** P.L.1995, c.244 (C.2A:50-  
4 57), but that the debtor shall be responsible for the lender's court costs  
5 and attorneys' fees in an amount not to exceed that amount permitted  
6 pursuant to the Rules Governing the Courts of the State of New Jersey;

7 (8) the right, if any, of the debtor to transfer the real estate to  
8 another person subject to the security interest and that the transferee  
9 may have the right to cure the default as provided in <sup>2</sup>**[this act]**  
10 P.L.1995, c.244 (C.2A:50-53 et seq.)<sup>2</sup>, subject to the mortgage  
11 documents;

12 (9) that the debtor is advised to seek counsel from an attorney of  
13 the debtor's own choosing concerning the debtor's residential mortgage  
14 default situation, and that, if the debtor is unable to obtain an attorney,  
15 the debtor may communicate with the New Jersey Bar Association or  
16 Lawyer Referral Service in the county in which the residential  
17 property securing the mortgage loan is located; and that, if the debtor  
18 is unable to afford an attorney, the debtor may communicate with the  
19 Legal Services Office in the county in which the property is located;

20 (10) the possible availability of financial assistance for curing a  
21 default from programs operated by the State or federal government or  
22 nonprofit organizations, if any, as identified by the Commissioner of  
23 Banking and Insurance. This requirement shall be satisfied by  
24 attaching a list of such programs promulgated by the commissioner;  
25 **[and]**

26 (11) the name and address of the lender and the telephone number  
27 of a representative of the lender whom the debtor may contact if the  
28 debtor disagrees with the lender's assertion that a default has occurred  
29 or the correctness of the mortgage lender's calculation of the amount  
30 required to cure the default ; and

31 (12) that the lender is <sup>2</sup>either<sup>2</sup> licensed in accordance with the  
32 “New Jersey Residential Mortgage Lending Act,” sections 1 through  
33 39 of P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89) <sup>2</sup>or exempt  
34 from licensure under the act in accordance with applicable law<sup>2</sup>.

35 d. The notice of intention to foreclose required to be provided  
36 pursuant to this section shall not be required if the debtor has  
37 voluntarily surrendered the property which is the subject of the  
38 residential mortgage.

39 e. The duty of the lender under this section to serve notice of  
40 intention to foreclose is independent of any other duty to give notice  
41 under the common law, principles of equity, State or federal statute, or  
42 rule of court and of any other right or remedy the debtor may have as a  
43 result of the failure to give such notice.

44 f. Compliance with this section shall be set forth in the pleadings  
45 of any legal action referred to in this section. If the plaintiff in any  
46 complaint seeking foreclosure of a residential mortgage alleges that  
47 the property subject to the residential mortgage has been abandoned or

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1 voluntarily surrendered, the plaintiff shall plead the specific facts upon  
2 which this allegation is based.<sup>1</sup>

3 (cf: P.L.2003, c.298, s.1)

4

5 <sup>1</sup>**[2.]** 3.<sup>1</sup> This act shall take effect immediately.