

CHAPTER 10 MORTGAGES

Authority

N.J.S.A. 17:1-8, 8.1 and 15e, 17:9A-64.1, 17:12B-48(21), 17:29-11, and 46:10B-49.

Source and Effective Date

R.2006 d.442, effective November 21, 2006.
See: 38 N.J.R. 3105(a), 38 N.J.R. 5354(b).

Chapter Expiration Date

Chapter 10, Mortgages, expires on November 21, 2011.

Chapter Historical Note

Chapter 10, Mortgages, was adopted and became effective prior to September 1, 1969.

Subchapter 8, Appraisal Value Relaxed for Certain Loans, was adopted as new rules by R.2004 d.282, effective July 19, 2004. See: 36 N.J.R. 1261(a), 36 N.J.R. 3397(a).

Chapter 10, Mortgages, was readopted as R.2006 d.442, effective November 21, 2006. As part of R.2006 d.442, Subchapter 1, Limitations on Mortgage Loans, Subchapter 2, Extension of the Time Factor in Connection with Construction Mortgage Loans, Subchapter 3, Pledging Collateral Security For Certain Excess Mortgage Loans, Subchapter 4, Increase in Ratio of Mortgage to Appraise Value of Mortgaged Property, Subchapter 6, Out-of-State Mortgages and Subchapter 7, Secondary Mortgage Loans, were repealed effective December 18, 2006. See: Source and Effective Date. See, also, section annotations.

Subchapter 9, Reporting Requirements on Mortgage Foreclosure Actions, was adopted as new rules by R.2009 d.350, effective November 16, 2009. See: 41 N.J.R. 2367(a), 41 N.J.R. 4193(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTERS 1 THROUGH 4. (RESERVED)

SUBCHAPTER 5. CHARGE FOR SUBSTITUTION OF POLICIES

3:10-5.1 Maximum charge

SUBCHAPTERS 6 THROUGH 7. (RESERVED)

SUBCHAPTER 8. APPRAISAL VALUE RELAXED FOR CERTAIN LOANS

3:10-8.1 Appraisal ratio relaxed for certain loans

SUBCHAPTER 9. REPORTING REQUIREMENTS ON MORTGAGE FORECLOSURE ACTIONS

3:10-9.1 Purpose and scope

3:10-9.2 Definitions

3:10-9.3 Reporting requirements

3:10-9.4 Retention requirements

SUBCHAPTERS 1 THROUGH 4. (RESERVED)

SUBCHAPTER 5. CHARGE FOR SUBSTITUTION OF POLICIES

3:10-5.1 Maximum charge

No lender or other legal entity servicing mortgages shall make any charge in excess of \$5.00 for the substitution in midterm by the mortgagor of an insurance policy or policies.

SUBCHAPTERS 6 THROUGH 7. (RESERVED)

SUBCHAPTER 8. APPRAISAL VALUE RELAXED FOR CERTAIN LOANS

3:10-8.1 Appraisal ratio relaxed for certain loans

(a) A bank or savings bank may originate or acquire mortgage loans up to 100 percent of the appraised value of the property, provided that:

1. The applicant has insufficient resources to make a downpayment of 10 percent or more;
2. The loan does not exceed the lending limits for FHA loans by county (published at www.fha.com);
3. The aggregate amount of loans originated or acquired pursuant to this section shall not exceed five percent of the capital funds of the bank or savings bank as defined in N.J.S.A. 17:9A-60 without prior approval of the Commissioner; and
4. One or more of the following conditions are met:
 - i. The mortgage loan is made to an individual or family of low or moderate income, as defined by 12 U.S.C. § 2901, who will occupy the property as a primary residence;
 - ii. The mortgage loan is made to a first-time home-buyer who will occupy the property as a primary residence;
 - iii. The mortgage loan is made to an individual or family who currently resides, or who will reside, in a low or moderate income census tract as defined by 12 U.S.C. § 2901, and who will occupy the property to be mortgaged as a primary residence; or
 - iv. The mortgage loan is made to an individual or family who is seeking a loan in connection with any State or Federal agency affordable housing construction, purchase or refinancing program.

SUBCHAPTER 9. REPORTING REQUIREMENTS ON MORTGAGE FORECLOSURE ACTIONS

3:10-9.1 Purpose and scope

(a) The purpose of this subchapter is to implement the requirements imposed by N.J.S.A. 46:10B-49 regarding the reporting to and publication by the Department of information on the number of residential mortgage foreclosure proceedings instituted by creditors in each county of this State and on the types of residential mortgages sought to be foreclosed upon in such actions.

(b) This subchapter shall pertain to all creditors who file a mortgage foreclosure action in this State.

3:10-9.2 Definitions

The following words and terms shall have the following meaning for purposes of this subchapter:

“Adjustable rate mortgage” means a mortgage loan that does not have a fixed interest rate or on some other basis. During the life of the loan, the interest rate will change based on a specified index rate or on some other basis. Also known as adjustable mortgage loans or variable rate mortgages.

“Conforming mortgage” means a mortgage with a loan amount that does not exceed the loan limits set by the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac) or their successors.

“Creditor” means a mortgagee or an agent or assignee of a mortgagee, such as the servicer, who has filed a complaint in the Superior Court of New Jersey seeking to foreclose upon a residential mortgage.

“FHA mortgage” means a mortgage insured by the Federal Housing Administration.

“FICO score” means a borrower’s credit score calculated using methodology developed by Fair Isaac Corporation.

“Fixed rate mortgage” means a mortgage with payments that remain the same throughout the life of the loan because the interest rate and other terms are fixed and do not change.

“Interest only mortgage” means a mortgage where the borrower has the option of paying only the interest for a limited period of time.

“Mortgage foreclosure proceeding instituted” means the filing of a complaint in the Superior Court of New Jersey seeking to foreclose upon a residential mortgage.

“Nonconforming mortgage” means a mortgage with a loan amount that exceeds the loan limits set by the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac), or their successors.

“Prime market rate mortgage” means a residential mortgage given to a borrower with a FICO score of 660 or more.

“Reporting quarter” means the calendar quarter immediately prior to the month in which the data is being inputted in accordance with this subchapter.

“Residential mortgage” means a mortgage in which the security is an owner occupied residential property of not more than four dwelling units as defined by N.J.S.A. 2A:50-55.

“Servicer” means a business that collects mortgage payments from borrowers and manages the borrower’s escrow accounts.

“Subprime market rate mortgage” means a residential mortgage given to a borrower with a FICO score of less than 660.

“USDA Rural Development Loan” means a mortgage insured by Rural Development Office of the United States Department of Agriculture.

“VA mortgage” means a mortgage insured by the Veteran’s Administration.

3:10-9.3 Reporting requirements

(a) With the exception of the first report to be filed by creditors subsequent to the adoption of this subchapter, which shall relate to mortgage foreclosure actions instituted during the third calendar quarter of 2009 and shall be filed by December 31, 2009, within 30 days of the end of each calendar quarter, each creditor shall file electronically on a form prescribed by the Commissioner, a report containing information pertaining to the number of residential mortgage foreclosure actions instituted by that creditor in the aforementioned quarter.

(b) Such reports shall include the following information:

1. The name of the servicer or the name of the mortgagee if there is no servicer;
2. The name of the individual submitting the data;
3. The total number of residential mortgages upon which a mortgage foreclosure proceeding was instituted by the creditor in the State of New Jersey during the reporting calendar quarter;
4. The total number of residential mortgages on which a mortgage foreclosure proceeding was instituted during the reporting calendar quarter in each municipality in which a property being foreclosed upon is situated;
5. The following information with respect to the residential mortgages on which foreclosure actions were instituted on properties situated in the respective municipalities referenced in (b)3 above: