

CHAPTER 15

**LICENSED LENDERS: MORTGAGE BANKERS;
CORRESPONDENT MORTGAGE BANKERS;
MORTGAGE BROKERS; SECONDARY LEND-
ERS; CONSUMER LENDERS AND SALES FI-
NANCE COMPANIES**

Authority

N.J.S.A. 17:1-8.1 and 15e, 17:1C-33 et seq. and 17:11C-1.

Source and Effective Date

R.2002 d.353, effective October 10, 2002.
See: 34 N.J.R. 1775(a), 34 N.J.R. 3795(a).

Chapter Expiration Date

Chapter 15, Licensed Lenders: Mortgage Bankers; Correspondent Mortgage Bankers; Mortgage Brokers; Secondary Lenders; Consumer Lenders and Sales Finance Companies, expires on October 10, 2007.

Chapter Historical Note

Chapter 15, Licensed Lenders: Mortgage Bankers; Correspondent Mortgage Bankers; Mortgage Brokers; Secondary Lenders; Consumer Lenders and Sales Finance Companies was adopted by R.1997 d.183 effective April 21, 1997. See: 29 N.J.R. 525(a), 29 N.J.R. 1509(a).

Subchapter 5, Tangible Net Worth, Net Worth, Liquid Assets, Insolvency, Subchapter 6, Books and Records; Examinations; Annual Reports, Subchapter 7, Insurance, Subchapter 8, Advertising, Subchapter 9, Permissible Fees, Subchapter 10, Characteristics of Loans, Subchapter 11, Other Permissible Lines of Business for Consumer Lenders and Subchapter 12, Imposition of Administrative Penalties, were adopted as R.1997 d.257, effective June 16, 1997. See: 29 N.J.R. 1489(a), 29 N.J.R. 2641(a).

Chapter 15, Licensed Lenders: Mortgage Bankers; Correspondent Mortgage Bankers; Mortgage Brokers; Secondary Lenders; Consumer Lenders and Sales Finance Companies was readopted as R.2002 d.353 effective October 10, 2002. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

3:15-1.1 Purpose and scope

(a) This chapter implements the New Jersey Licensed Lenders Act, N.J.S.A. 17:11C-1 et seq.

(b) This chapter shall apply to all licensed lenders with mortgage banker, correspondent mortgage banker, mortgage broker, secondary lender, consumer lender and/or sales finance company authority or authorities and registered mortgage solicitors and those whose activities require they be licensed or registered.

Amended by R.1999 d.191, effective June 21, 1999 (operative July 21, 1999).

See: 30 N.J.R. 1658(a), 31 N.J.R. 1609(a).

In (a), changed New Jersey Licensed Lenders Act reference.
Amended by R.2002 d.353, effective November 4, 2002.

See: 34 N.J.R. 1775(a), 34 N.J.R. 3795(a).
Rewrote the section.

3:15-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise.

“Accrual basis of accounting” means the accounting method by which expenses are recorded when incurred, whether paid or unpaid, and income is recorded when earned, whether received or not received.

“Act” means the “New Jersey Licensed Lenders Act,” N.J.S.A. 17:11C-1 et seq.

“Advertisement” means any announcement, statement, assertion, or representation that is placed before the public in a newspaper, magazine, or other publication or in the form of a notice, circular, pamphlet, letter or poster or over any radio or television station, by means of the internet or by other electronic means of distributing information, or in any other way.

“Alternate name” means an alternate name registered pursuant to N.J.S.A. 14A:2-2.1(2) or 42:2B-4b.

“Application” means the document or documents or information, including the payment of any fees, that a particular lender or broker requires a borrower to submit for the purpose of having the lender or broker begin to process the loan document or documents to determine whether to grant or deny a loan.

“Application fee” shall have the meaning of that term in N.J.A.C. 3:1-16.2.

“Appraisal fee” shall have the meaning of that term in N.J.A.C. 3:1-16.2.

“Authority” means one of the activities permitted for a licensee pursuant to the Act: either mortgage banker, correspondent mortgage banker or mortgage broker; secondary lender; consumer lender; or sales finance business.

“Biennial period” means the two-year period beginning on July 1 of an odd-numbered year.

“Billing cycle” means the time interval between periodic billing dates. A billing cycle shall be considered monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from such date.

“Borrower” means any person applying for a loan from a lender licensed under the Act, whether or not the loan is granted, and any person who has actually obtained such a loan.

3:15-3.4 Original bond or rider required; changes in surety companies or bonds

A mortgage banker, correspondent mortgage banker, mortgage broker or secondary lender shall submit to the Department the original executed surety bond or the original rider to the original executed surety bond. If the mortgage banker, correspondent mortgage banker, mortgage broker or secondary lender changes its surety company or the bond is otherwise amended, the mortgage banker, correspondent mortgage banker, mortgage broker or secondary lender shall immediately provide the Department with the amended original executed surety bond or the amended original rider to the original executed surety bond.

New Rule, R.1997 d.257, effective June 16, 1997.
See: 29 N.J.R. 1489(a), 29 N.J.R. 2641(a).

3:15-3.5 Notice to Department required before cancelling bond coverage

A surety company shall not cancel a bond for any cause unless written notice of its intention to cancel is filed with the Department at least 30 days before the day upon which cancellation shall take effect, and cancellation without such notice shall not be effective.

New Rule, R.1997 d.257, effective June 16, 1997.
See: 29 N.J.R. 1489(a), 29 N.J.R. 2641(a).

3:15-3.6 Surety companies to notify Department of claims; claims payable only at the direction of the Department

When a person submits a claim with a surety company against the bond of a mortgage banker, correspondent mortgage banker, mortgage broker or secondary lender, the surety company shall immediately notify the Department and shall not pay any claim unless and until it receives direction to do so from the Department.

New Rule, R.1997 d.257, effective June 16, 1997.
See: 29 N.J.R. 1489(a), 29 N.J.R. 2641(a).

3:15-3.7 Publication of notices of bond claims by the Department

When the Department receives notice from a surety company of a claim against a mortgage banker, correspondent mortgage banker, mortgage broker or secondary lender that appears valid, a consumer is unable to obtain payment of a court judgement that was obtained against the mortgage banker, correspondent mortgage banker, mortgage broker or secondary lender for activities undertaken as a licensee, or the Department in its sole discretion otherwise determines it is necessary and proper to do so, the Department shall cause a notice to be published once a week for three successive weeks in a newspaper having general circulation in the area where the mortgage banker, correspondent mortgage banker, mortgage broker or secondary lender conducts or conducted business advising consumers of their right to file claims

against the bond. The Department is not required to publish notice when it has a claim against the bond for an examination charge or any other fee, charge or penalty if there are no consumer claims or complaints that appear valid and that may require payment from the bond. If the Department determines a notice is necessary, the notice shall be in the following form:

NOTICE TO CONSUMERS
TO ANY CONSUMER HAVING CLAIMS AGAINST

(Name of Licensee), (Type of licensed activity, i.e., mortgage banker, correspondent mortgage banker, mortgage broker, or secondary lender)

TAKE NOTICE that in order to provide a procedure for the orderly resolution of claims against the bond obtained by (Name of Licensee) for the benefit of any consumer injured by the wrongful act, default, fraud or misrepresentation of (Name of Licensee), you are hereby required to present your claims against (Name of Licensee) at the following address:

N.J. Department of Banking and Insurance
Division of Banking
Office of Consumer Finance
20 West State Street, PO Box 040
Trenton, NJ 08625-0040

Each claim shall be presented in writing, specifying the amount claimed and the particulars of the claim, and shall be duly verified under oath or affirmation.

TAKE FURTHER NOTICE that each person having claims against (Name of Licensee) should file a claim no later than (one month after last notice) or risk losing the opportunity to file a claim.

Commissioner of Banking and Insurance

New Rule, R.1997 d.257, effective June 16, 1997.
See: 29 N.J.R. 1489(a), 29 N.J.R. 2641(a).
Amended by R.2002 d.353, effective November 4, 2002.
See: 34 N.J.R. 1775(a), 34 N.J.R. 3795(a).

3:15-3.8 Priority of claims against bonds

The Department shall review all timely claims made against the bond of a mortgage banker, correspondent mortgage banker, mortgage broker or secondary lender and shall decide which claims are valid. All consumers with timely valid claims shall share pro rata in their claims against the bond. The Department shall then submit claims it has against the mortgage banker, correspondent mortgage banker, mortgage broker or secondary lender for unpaid examination charges or for other penalties, charges or fees to the surety company for payment. Consumers submitting claims after the filing date set forth in the published notice but before the expiration of the applicable statute of limitations period shall recover next against the bond in the order that the claims are submitted.

New Rule, R.1997 d.257, effective June 16, 1997.
See: 29 N.J.R. 1489(a), 29 N.J.R. 2641(a).

SUBCHAPTER 4. FEES

3:15-4.1 Fees—general

All fees shall be paid by a check made payable to "Treasurer—State of New Jersey."

3:15-4.2 Application fee

(a) A person who is applying for a license under the Act shall pay an application fee to the Department as follows:

1. One authority for an individual and/or company: \$700.00;
2. Two authorities for an individual and/or company: \$1,000;
3. Three authorities for an individual and/or company: \$1,300; and
4. Four authorities for an individual and/or company: \$1,600.

(b) A licensee who subsequently applies for an additional authority shall pay an application fee for each such application of \$300.00 per authority for each individual and/or company.

(c) Application fees are non-refundable.

Recodified from N.J.A.C. 3:15-4.3 by R.2002 d.353, effective November 4, 2002.

See: 34 N.J.R. 1775(a), 34 N.J.R. 3795(a).

Former N.J.A.C. 3:15-4.2, One-time administrative fee, repealed.

Amended by R.2006 d.235, effective June 19, 2006.

See: 38 N.J.R. 10(a), 38 N.J.R. 2674(a).

Section was "Application fee for an initial license". In the introductory paragraph of (a), substituted "a" for "an initial", deleted "for a principal office" following "license" and substituted "as follows" for "in the amount of \$300.00 regardless of the number of authorities requested in the application.", added (a)1 through (a)4; deleted former (b); recodified former (c) and (d) as (b) and (c); and inserted "of \$300.00 per authority for each individual and/or company" near the end of present (b).

3:15-4.3 (Reserved)

Repealed by R.2006 d.235, effective June 19, 2006.

See: 38 N.J.R. 10(a), 38 N.J.R. 2674(a)

Section was "License fees".

SUBCHAPTER 5. TANGIBLE NET WORTH, NET WORTH, LIQUID ASSETS, INSOLVENCY

3:15-5.1 Applicability of provisions

The requirements of this subchapter shall apply to each corporation, partnership, limited liability company, or sole

proprietorship that is licensed, or that is an applicant for a license, as a mortgage banker, correspondent mortgage banker, or mortgage broker and shall not apply to supervisory individuals or individuals other than sole proprietors. The subchapter shall also apply to a person who is licensed, or who is an applicant for a license, as a secondary lender or a consumer lender.

3:15-5.2 Accounting method for determining tangible net worth

Tangible net worth and net worth shall be computed on the accrual basis of accounting.

3:15-5.3 Requirement to achieve and maintain tangible net worth, net worth and liquid assets

Each applicant for a license with authority as a mortgage banker, correspondent mortgage banker, mortgage broker, secondary lender or consumer lender shall achieve and maintain the tangible net worth, net worth, and liquid assets as required by N.J.S.A 17:11C-14, 15 and 16.

Amended by R.2002 d.353, effective November 4, 2002.

See: 34 N.J.R. 1775(a), 34 N.J.R. 3795(a).

Rewrote the section.

3:15-5.4 Failure to maintain tangible net worth, net worth or liquid assets; action by the Department

(a) If the tangible net worth of a mortgage banker, correspondent mortgage banker, or mortgage broker, or if the net worth or liquid assets of a secondary lender or consumer lender falls below the amounts required by N.J.S.A. 17:11C-14, 15 and 16, or if the mortgage banker, correspondent mortgage banker, mortgage broker, secondary lender or consumer lender is insolvent, the Department may take such action as it deems appropriate and necessary to protect the public. The action may include requiring the mortgage banker, correspondent mortgage banker, mortgage broker, secondary lender or consumer lender to operate pursuant to a Memorandum of Understanding, or directing the mortgage banker, correspondent mortgage banker, mortgage broker, secondary lender or consumer lender to submit and comply with a capital plan within a time frame established by the Department to attain the tangible net worth, net worth or liquid assets required by the Act.

(b) When considering whether to suspend, revoke or refuse to renew the license of a mortgage banker, correspondent mortgage banker, mortgage broker, secondary lender or consumer lender who does not have the tangible net worth, net worth or liquid assets required by the Act, the Commissioner shall consider the following factors:

1. How far the mortgage banker, correspondent mortgage banker, mortgage broker, secondary lender or consumer lender is below the level of tangible net worth, net worth or liquid assets required by the Act;