

(c) A person not having an interest in the real property used as security for the loan shall be considered a joint borrower if:

1. The borrowers sign an affidavit affirming their agreement to be jointly liable and to share in the proceeds of the secondary mortgage loan; and

2. The secondary lender issues the proceeds check or checks in all borrowers' names. If borrowers may access a line of credit by writing checks or otherwise, this requirement will be satisfied if all borrowers have the authority to draw against the account.

(d) A secondary lender shall not be made a beneficiary of an insurance policy purchased by the borrower from the secondary lender except as otherwise permitted by law.

(e) A secondary lender is prohibited from engaging in the secondary mortgage loan business at a location that is utilized by a banking institution or savings and loan association as a main branch or any other office, except that no secondary lender shall be prohibited from engaging in the secondary mortgage loan business at a location utilized by a banking institution or savings and loan association, if the office and operations of the secondary lender are separate and apart and distinct from the offices and operations of the banking institution or the savings and loan association, and when employees of the banking institution or the savings and loan association are not employed by or soliciting for the secondary lender.

3:15-10.3 Consumer loans

(a) All consumer loans, except variable rate loans permitted pursuant to N.J.S.A. 17:11C-32, shall be repaid in substantially equal monthly installments of principal and interest computed on unpaid balances sufficient to liquidate the principal thereof, except as provided in subsection (b) below.

(b) In fixing the date of the first installment beyond one month, the number of days in excess of one month, but not in excess of 15 days, shall be counted after the expiration of one month from the date of the loan. The amount of the first installment may be increased by the amount of interest for the number of days in excess of one month.

(c) A consumer lender shall not knowingly grant a loan in one office to any borrower who already has a loan in another office operated by the same entity or by an affiliate, parent, subsidiary or under the same ownership, management or control, whether partial or complete.

(d) When a consumer lender knows or has reason to know that the proceeds of loan of \$50,000 or less are to be delivered by the borrower to an individual already indebted to such consumer lender on a loan of \$50,000 or less, then such loans shall be construed as a single loan to such individual for the purpose of interest computations. If the

aggregate of such loans ever exceeds \$50,000 or less interest on such accounts earned from the date such excess occurred shall be restricted to the rate on unpaid balances authorized by the Interest and Usury Law, N.J.S.A. 31:1-1 et seq. and its implementing rule set forth at N.J.A.C. 3:1-1.1.

(e) Whenever a consumer lender has placed an account in the hands of an attorney or other agent for collection, all payments thereafter received by the consumer lender or by such attorney or agent, prior to entry of judgment on such account, shall be credited by the consumer lender to the account as of the date of receipt of such payment to the licensee or to such attorney or agent, and any such attorney or agent shall notify the consumer lender of the day any such payment is received.

(f) All out-of-State loans purchased shall be reported as a separate item in the consumer lender's annual report to the Commissioner.

(g) The required information concerning the amount of interest payable over the term of the loan shall be given on the assumption that the contract will be paid in accordance with the terms originally agreed upon. A variance tolerance of \$1.00 in the total amount of interest set forth in the loan contract is hereby authorized.

Amended by R.2002 d.353, effective November 4, 2002.
See: 34 N.J.R. 1775(a), 34 N.J.R. 3795(a).

In (d), substituted "\$50,000" for "\$15,000" throughout.

3:15-10.4 First mortgage loans

A first mortgage lender shall not require or accept from a borrower any collateral or security for a first mortgage loan other than a mortgage, indenture or any other similar instrument or document that creates a first lien upon any real property or an interest in real property including, but not limited to, shares of stock in a cooperative corporation.

New Rule, R.2002 d.353, effective November 4, 2002.
See: 34 N.J.R. 1775(a), 34 N.J.R. 3795(a).

SUBCHAPTER 11. OTHER PERMISSIBLE LINES OF BUSINESS FOR CONSUMER LENDERS

3:15-11.1 All activities prohibited except as authorized by this subchapter

No consumer lender shall conduct any business activities in its office except for activities authorized under the consumer lending license, activities specified in N.J.A.C. 3:15-11.2, and activities for which the consumer lender has obtained specific approval from the Commissioner as provided in N.J.A.C. 3:15-11.2.

3:15-11.2 Approved business activities for consumer lenders

(a) A consumer lender may engage in the activities listed below without securing specific approval from the Commissioner. The activities may be conducted in the same office, room or place of business where the consumer lender conducts the business of making consumer loans.

1. Any licensed activity permitted under the Act provided that the consumer lender secures proper licensing from the Department;

2. The home financing agency business. Any such business shall be conducted in accordance with the provisions of N.J.S.A. 17:16C-62 et seq., the Home Repair Financing Act;

3. The insurance premium finance company business. Any such business shall be conducted in accordance with the provisions of N.J.S.A. 17:16D-1 et seq., the Insurance Premium Finance Company Act;

4. The making of business or commercial loans;

5. The financing of installment contracts involving the time sale of goods or services that are to be utilized by the buyer for business or commercial purposes;

6. The leasing of personal property for business or commercial purposes;

7. Income tax preparation service;

8. First lien loans on non-residential real property provided that such business is conducted in accordance with the provisions of N.J.S.A. 31:1-1 et seq., N.J.A.C. 3:1 or Section 501 et seq., of the Federal Depository Institutions Deregulation and Monetary Control Act of 1980; and

9. Purchase of owner originated second mortgages under such reasonable terms and conditions as may be agreed to between the consumer lender and the mortgagee.

(b) A consumer lender who wishes to engage in the same office, room or place of business in an activity related to the financial services business not authorized by the consumer lending license nor specified in (a) above, may apply to the Commissioner for approval to engage in such activity. Such application:

1. Shall be in writing;

2. Shall identify that it is an application by a consumer lender to engage in an activity pursuant to N.J.A.C. 3:15-11.2;

3. Shall describe in detail how the activity in which the consumer lender wishes to engage is related to the financial services business;

4. Shall include a statement that the consumer lender will not require that a borrower engage in the activity as a precondition for granting a consumer loan; and

5. Shall include a statement that the consumer lender will conduct the activity in conformity with all applicable law and regulations.

(c) The Commissioner shall approve or deny an application submitted pursuant to (b) above within 90 days of receipt. If the Commissioner does not, within 90 days of receipt, deny a consumer lender's application submitted pursuant to (b) above, the activity shall be deemed approved.

(d) Consumer lenders who obtained, prior to July 1, 1997, approval from the Commissioner to engage in an activity not specified in N.J.A.C. 3:15-11.2 shall be deemed to be approved to engage in that activity under the Act.

3:15-11.3 Suspensions or revocations of approved business activities

The Commissioner may, by written directive and after the licensee has had an opportunity to be heard, suspend or revoke a licensee's approval to engage in any of the business activities specified in N.J.A.C. 3:15-11.2 if it is determined that the licensee has violated the Act or these regulations.

New Rule, R.2002 d.353, effective November 4, 2002.
See: 34 N.J.R. 1775(a), 34 N.J.R. 3795(a).

SUBCHAPTER 12. IMPOSITION OF ADMINISTRATIVE PENALTIES**3:15-12.1 Initiation of action**

(a) Before an administrative penalty is imposed, the Department shall direct a notice by certified mail and regular mail, or by personal delivery, to the last known business or mailing address of the alleged violator. The notice shall include.

1. A reference to the statute, rule and/or administrative order alleged to be violated;

2. A concise statement of the facts on which the violation is based;

3. A statement of the administrative penalty, penalties or other relief sought to be imposed; and

4. A statement advising the alleged violator of the right to a hearing and the procedure for requesting a hearing.

(b) The notice may describe more than one violation, or more than one specific penalty or other relief for each violation. A single form of notice may be used to notify several alleged violators, so long as all are named and served with a copy of the notice in conformity with the provisions of (c) below.