

CHAPTER 10 MORTGAGES

Authority

N.J.S.A. 17:1-8.1, 17:1-15(e) and 17:12B-49(21).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 10, Mortgages, expires on December 28, 2006. See: 38 N.J.R. 3105(a).

Chapter Historical Note

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

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SUBCHAPTER 1. LIMITATIONS ON MORTGAGE LOANS

3:10-1.1 Ratio of mortgage loans to time deposits

The allowable ratio of all principal balances owing a bank on mortgage loans, adjusted by the various exclusions noted in section 69A of the Banking Act of 1948, as amended, shall be 80 per cent of the time deposits of the bank.

R.1973 d.174, eff. July 2, 1973.
See: 5 N.J.R. 182(b), 5 N.J.R. 258(a).

Authority

N.J.S.A. 17:9A-69A.

SUBCHAPTER 2. EXTENSION OF THE TIME FACTOR IN CONNECTION WITH CONSTRUCTION MORTGAGE LOANS

3:10-2.1 Banks authorization

Banks are allowed to extend the maturity on construction loans referred to in section 65A(5) and section 69D of the Banking Act of 1948, as amended, from 36 months to 60 months in order to create and maintain a parity between banks and national banks in matters relating to the making and acquiring of loans secured by interest in real property.

Authority

N.J.S.A. 17:9A-65(B).

3:10-2.2 (Reserved)

As amended, R.1970 d.53, eff. May 11, 1970.
See: 2 N.J.R. 30(a), 2 N.J.R. 45(c).
As amended, R.1977 d.157, eff. May 4, 1977.
See: 9 N.J.R. 252(c).

SUBCHAPTER 3. PLEDGING COLLATERAL SECURITY FOR CERTAIN EXCESS MORTGAGE LOANS

3:10-3.1 Authorization

Banks are authorized to make mortgage loans in excess of the ratio between appraised value and amount of a loan as limited by section 65B(1) of the Banking Act of 1948, as amended, provided that the amount of such excess is secured by other collateral having a value at all times at least equal to the amount of the excess.

Authority

N.J.S.A. 17:9A-65.

3:10-3.2 Private mortgage insurance or guaranty

Banks are authorized to make mortgage loans in excess of the ratio between the appraised value and the amount of the loan as limited by section 65(1) of the Banking Act of 1948, as amended, provided that in making such excess loans, substantial reliance is placed upon private company mortgage insurance or guaranty. However, in no event may the total loan exceed 100 per cent of the appraised value of the property. Appropriate evidence to demonstrate justification for such reliance should be maintained in the bank's files.

As amended, R.1977 d.429, eff. November 18, 1977.
See: 9 N.J.R. 452(b), 9 N.J.R. 556(b).

Authority
N.J.S.A. 17:9A-65.

3:10-3.3 Parity provisions

This subchapter is directed toward the creation and maintenance of a substantial parity between banks and national banks in accordance with section 65C of the act.

As amended, R.1977 d.429, eff. November 18, 1977.
See: 9 N.J.R. 452(b), 9 N.J.R. 556(b).

Authority
N.J.S.A. 17:9A-65.

SUBCHAPTER 4. INCREASE IN RATIO OF
MORTGAGE TO APPRAISE VALUE OF
MORTGAGED PROPERTY

3:10-4.1 Appraisal ratio for banks

Banks are authorized to increase the ratio of appraised value from 80 per cent to 90 per cent of the mortgages property as noted in section 65A(4) of the Banking Act of 1948, as amended.

As amended, R.1974 d.78, eff. March 28, 1974.
See: 6 N.J.R. 97(a), 6 N.J.R. 168(a).

Authority
N.J.S.A. 17:9A-65.

3:10-4.2 Parity provision for banks

This subchapter is directed toward the creation and maintenance of a substantial parity between banks and national banks in accordance with section 65C of the Banking Act of 1948, as amended.

As amended, R.1974 d.78, eff. March 28, 1974.
See: 6 N.J.R. 97(a), 6 N.J.R. 168(a).

Authority
N.J.S.A. 17:9A-65.

3:10-4.3 (Reserved)

R.1974 d.78, eff. March 28, 1974.
See: 6 N.J.R. 97(a), 6 N.J.R. 168(a).
As amended, R.1977 d.156, eff. May 4, 1977.
See: 9 N.J.R. 252(b).

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.

Authority
N.J.S.A. 17:29-11.

SUBCHAPTER 6. OUT-OF-STATE MORTGAGES

Authority

Unless otherwise expressly noted, all provisions of this subchapter were adopted by the Commissioner of Banking pursuant to authority delegated in N.J.S.A. 17:9A-65C and were filed and effective July 25, 1973, as R.1973 d.200. See: 5 N.J.R. 215(c), 5 N.J.R. 258(c).

3:10-6.1 Expansion of authority

In addition to the authority granted under N.J.S.A. 17:9A-65A(1) and N.J.S.A. 17:9A-66(1), a bank may grant real property mortgages or leasehold mortgages in any state in the United States, the District of Columbia, the several territories and possessions of the United States and the Commonwealth of Puerto Rico.

3:10-6.2 Requirements

A mortgage granted under the authority of section 1 of this subchapter must comply with all other provisions of N.J.S.A. 17:9A-64, 65, 66, 67 and 69.

3:10-6.3 Exclusions

No real property mortgage or leasehold mortgage shall be granted under the provisions of section 1 of this subchapter on a one to four-family dwelling or dwellings.

3:10-6.4 Parity provision

The commissioner and the Banking Advisory Board deem it warranted to adopt this subchapter, which is directed toward the creation and maintenance of a substantial parity between banks and national banks.

SUBCHAPTER 7. SECONDARY MORTGAGE LOANS

Authority

Unless otherwise expressly noted, all provisions of this subchapter were adopted pursuant to authority of N.J.S.A. 17:9A-25.2 and 17:9A-25.3 and were filed and became effective on July 1, 1977, as R.1977 d.232. See: 9 N.J.R. 251(b), 9 N.J.R. 355(a).

3:10-7.1 Expansion of authority

Banks may make secondary mortgage loans on the same terms and conditions under which national banks may make such loans pursuant to Federal law.

3:10-7.2 Interest rate limitation

In no case shall a bank make a secondary mortgage loan at a rate in excess of the rate set by the commissioner under the provisions of N.J.S.A. 17:9A-53C.

3:10-7.3 Exemption provision

A secondary mortgage loan shall not be deemed a mortgage loan within the meaning of section 181 and article 14 of the Banking Act of 1948, as amended (N.J.S.A. 17:9A et seq.).

3:10-7.4 Parity provision

The commissioner deems it necessary to adopt this subchapter, which is directed toward the creation and maintenance of a substantial parity between banks and national banks.

SUBCHAPTER 8. APPRAISAL VALUE RELAXED FOR CERTAIN LOANS

Authority

N.J.S.A. 17:1-15e and 17:9A-64.1.

Source and Effective Date

R.2004 d.282, effective July 19, 2004.
See: 36 N.J.R. 1261(a), 36 N.J.R. 3397(a).

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 homebuyer 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.