

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. 17:1-15e and 17:11C-49.

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Chapter 15, Licensed Lenders: Mortgage Bankers; Correspondent Mortgage Bankers; Mortgage Brokers; Secondary Lenders; Consumer Lenders and Sales Finance Companies, expires on April 21, 2002.

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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, P.L. 1996, c.157, which combines under one licensing authority activities that previously required separate licenses.

(b) This chapter shall apply to all licenses issued or renewed under the Act with an effective date of July 1, 1997 or later.

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," P.L. 1996, c.157.

"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.

"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.

"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.

"Branch office" means any location where, in the regular course of business, applications for first mortgage loans, second mortgage loans, consumer loans or sales finance contracts are distributed to or received from consumers, loan records are maintained, underwriting decisions are made, commitments or lock-in agreements are issued, or any fees or charges relating to the loan are received from consumers.

1. A home or place of business of a consumer shall not be considered a branch office.

2. A location shall not be considered a branch office merely because any or all of the following activities are conducted at the location:

i. Consumers receive information concerning available loan products from a computer terminal;

ii. Consumers are prequalified for a loan, so long as no additional fee is charged for this service; and

iii. Advertising materials are distributed to consumers so long as the materials do not in any way resemble an application for a loan.

3. A branch office of a licensee under the Act does not also constitute a branch office of another licensee merely because the first licensee distributes or receives applications of that other licensee at the branch office.

4. A principal or branch office of a bank, savings bank, savings and loan association or credit union shall not also constitute a branch office of a licensee merely because the bank, savings bank, savings and loan association or credit union distributes or receives applications of the licensee at the principal or branch office.

5. A licensed real estate office of a person licensed as a real estate broker or salesman pursuant to N.J.S.A. 45:15-1 et seq., does not constitute a branch of an entity licensed as a mortgage banker, correspondent mortgage banker or mortgage broker under the Act merely because the real estate broker or salesman distributes or receives an application of the entity licensed as a mortgage banker, correspondent mortgage banker or mortgage broker at that office, or because an entity licensed as a mortgage banker, correspondent mortgage banker or mortgage broker under the Act or a solicitor of that licensee who does not hold himself out to the public as performing mortgage banking, correspondent mortgage banking, or mortgage brokering there and does not maintain an office or desk there meets at the office of the real estate broker as a convenience to the borrower and distributes or receives applications or fees there.

"Closed-end loan" with respect to a secondary mortgage loan means a loan pursuant to which the licensee advances a specified amount of money and the borrower agrees to repay the principal and interest in substantially equal installments over a stated period of time, except that: the amount of the final installment payment may be substantially greater than the previous installments if the term of the loan is at least 36 months, or under 36 months if the remaining term of the first mortgage loan is under 36 months; or the amount of the installment payments may vary as a result of the change in the interest rate as permitted by the Act. "Closed-end loan" with respect to a consumer loan means a loan pursuant to which the licensee advances a specified amount of money and the borrower agrees to repay the principal and interest in substantially equal installments over a stated period of time and which meets the requirements of N.J.S.A. 17:11C-35.

"Commissioner" means the Commissioner of the Department of Banking and Insurance.

"Commitment" means a signed statement issued by a lender in that the lender premises to make a loan of specified terms to a specified borrower, and which is based on a satisfactory underwriting analysis of the appraisal, if an appraisal is required in connection with the loan, and satisfactory underwriting analysis of the credit report, if a credit report is required in connection with the loan, except that any document indicating approval of a loan application that is contingent on the approval of a party to whom the lender seeks to sell the loan shall not be deemed a commitment.

"Commitment fee" shall have the meaning of that term in N.J.A.C. 3:1-16.2.

"Consumer lender" means a person licensed, or a person who should be licensed, under the Act to engage in the consumer loan business.

"Consumer loan" means a loan of \$15,000 or less made by a consumer lender pursuant to the terms of the Act, and not a first mortgage loan or a secondary mortgage loan.

"Consumer loan business" means the business of making loans of money, credit, goods or things in action in the amount of value of \$15,000 or less and charging, contracting for, or receiving a greater rate of interest, discount or consideration therefore than the lender would be permitted by law to charge if he or she were not a licensee hereunder, except as authorized by the Act and without first obtaining a license from the Commissioner. Any person directly or indirectly engaging in the business of soliciting or taking applications for such loans of \$15,000 or less, or in the business or negotiating or arranging or aiding the borrower or lender in procuring or making such loans of \$15,000 or less, or in the business of buying, discounting or indorsing notes, or of furnishing, or procuring guarantee or security for compensation in amounts of \$15,000 or less, shall be deemed to be engaging in the consumer loan business.

"Controlling interest" means ownership, control or interest of 25 percent or more of the licensee or applicant.

"Correspondent mortgage banker" means a mortgage banker who:

1. In the regular course of business, does not hold mortgage loans in its portfolio, or service mortgage loans, for more than 90 days; and
2. Has shown to the Department's satisfaction an ability to fund loans through warehouse agreements, table funding agreements or otherwise.

"Credit report fee" shall have the meaning of that term in N.J.A.C. 3:1-16.2.

"Department" means the Department of Banking and Insurance.

"Depository institution" means any entity holding a state or Federal charter for a bank, savings bank, savings and loan association or credit union, irrespective of whether the entity accepts deposits.

"Direct contact" means in-person contact, and contact by means of a telephone, computer terminal or other electronic means during which contact, in the regular course of business, applications for first mortgage loans, second mortgage loans, consumer loans or sales finance contracts are distributed to or received from consumers, underwriting decisions are made, commitments or lock-in agreements are issued, or any fees or charges relating to the loan are authorized.

"Discount point" shall have the meaning of that term in N.J.A.C. 3:1-16.2.

"First mortgage loan" means any loan secured by a first mortgage on real property on a one to six family dwelling, a portion of which may be used for nonresidential purposes.

"Insolvent" means having negative tangible net worth, or being unable to pay debts when due.

"Lender" means a bank, savings bank, savings and loan association, credit union, mortgage banker, correspondent mortgage banker, secondary lender, consumer lender, sales finance company or any other person who originates loans in this State.

"Licensed lender" or "licensee" means a person who is licensed pursuant to the Act with one or more authorities.

"Liquid assets" means cash, marketable securities, and accounts receivable.

"Lock-in agreement" means an agreement between the lender and the borrower whereby the lender guarantees until a specified date the availability of a specified rate of interest or time price differential or specified formula by which the rate of interest or time price differential will be

determined and/or specific number discount points, provided the loan is approved and closed by the specified date. If a specified date is not determinable, the lender may fulfill the requirement of this provision by setting forth with specificity the method by which the duration of the lock-in period will be determined. The term "lock-in agreement" does not include an agreement to fix the rate executed three or fewer calendar days before closing where appropriate disclosures have been made under the provisions of this chapter.

"Lock-in fee" shall have the meaning of that term in N.J.A.C. 3:1-16.2.

"Mortgage banker" means any person, not exempt under section 4 of the Act and licensed pursuant to the provisions of the Act, and any person who should be licensed pursuant to the provisions of the Act, who for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly originates, acquires or negotiates first mortgage loans in the primary market.

"Mortgage broker" means any person, not exempt under section 4 of the Act and licensed pursuant to the provisions of the Act, and any person who should be licensed pursuant to the provisions of the Act, who for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly negotiates, places or sells for others or offers to negotiate, place or sell for others, first mortgage loans in the primary market.

"Mortgage loan" means any loan secured by a mortgage on real property on a one- to six-family dwelling, a portion of which structure may be used for nonresidential purposes.

"Mortgage solicitor" means any person not licensed as a mortgage banker, correspondent mortgage banker, or mortgage broker who is employed as a solicitor by one, and not more than one, licensee, who is subject to the direct supervision and control of that licensee, and who solicits, provides or accepts first mortgage loan applications, or assists borrowers in completing first mortgage loan applications, and whose compensation is in any way based on the dollar amount or volume of first mortgage loan applications, first mortgage closings or other first mortgage loan activity.

"Open-end loan" means a secondary mortgage loan made by a secondary lender or a consumer loan made by a consumer lender pursuant to a written agreement with the borrower whereby:

1. The secondary lender or consumer lender may permit the borrower to obtain advances of money from the secondary lender or consumer lender from time to time or the secondary lender or consumer lender may advance money on behalf of the borrower from time to time as directed by the borrower;

2. The amount of each advance and permitted interest and charges are debited to the borrower's account and payments and other credits are credited to the same account;

3. Interest is computed on the unpaid principal balance or balances of the account from time to time; and

4. The borrower has the privilege of paying the account in full at any time or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement.

"Originate" means to commit to make a mortgage loan, or to close a mortgage loan in the name of the licensee.

"Person" means an individual, association, joint venture, partnership, limited partnership association, limited liability company, corporation, trust, or any other group of individuals however organized.

"Prequalification" means the process whereby a licensee prior to application advises a person whether or not he or she qualifies for a loan product, subject to satisfactory appraisal and other contingencies.

"Primary market" means the market wherein first mortgage loans are originated between a lender and a borrower, whether or not through a mortgage broker or other conduit, and shall not include the sale or acquisition of a mortgage loan after closing of the mortgage loan.

"RESPA" means the Federal Real Estate Settlement Procedures Act, 12 U.S.C. § 2607, regulations implementing RESPA, and any opinion regarding RESPA issued by the Department of Housing and Urban Development.

"Sales finance company" shall have the meaning ascribed to that term in N.J.S.A. 17:16C-1.

"Secondary lender" means a person licensed, or a person who should be licensed, under the Act to engage in the secondary mortgage loan business.

"Secondary mortgage loan" means a loan made to an individual, association, joint venture, partnership, limited partnership association, limited liability company, trust, or any other group of individuals, however organized, except a corporation, which is secured in whole or in part by a lien upon any interest in real property, including, but not limited to, shares of stock in a cooperative corporation, created by a security agreement, including a mortgage, indenture, or any other similar instrument or document, which real property is subject to one or more prior liens and on which there is erected a structure containing one, two, three, four, five or six dwelling units, a portion of which structure may be used for nonresidential purposes, except that the following shall not be subject to the provisions of this chapter:

1. A loan that is to be repaid in 90 days or less;

2. A loan that is taken as security for a home repair contract executed in accordance with the provisions of Home Repair Financing Act, P.L. 1960, c.41 (N.J.S.A. 17:16C-62 et seq.); or

3. A loan that is the result of the private sale of a dwelling, if title to the dwelling is in the name of the seller and the seller has resided in the dwelling for at least one year, if the buyer is purchasing that dwelling for his or her own residence and, if the buyer, as a part of the purchase price, executes a secondary mortgage in favor of the seller.

"Secondary mortgage loan business" means advertising, causing to be advertised, soliciting, negotiating, offering to make or making a secondary mortgage loan in this State, whether directly or by any person acting for his or her benefit, or becoming the subsequent holder of a promissory note or mortgage, indenture or any other similar instrument or document received in connection with a secondary mortgage loan.

"Settlement service" means any service provided in connection with a real estate settlement including, but not limited to, the following: title searches, title examinations, the provision of title certificates, title insurance, services rendered by an attorney, the preparation of documents, property surveys, the rendering of credit reports or appraisals, pest and fungus inspections, services rendered by a real estate agent or broker, and the handling of the processing, and closing or settlement.

"Table funding agreement" means an agreement between an investor and a licensee whereby the investor agrees to purchase specified mortgage loans from a licensee immediately after the closing of the mortgage loans, and which permits the licensee to close with funds of the investor.

"Tangible net worth" means net worth less the following assets:

1. That portion of any assets pledged to secure obligations of any person or entity other than that of the applicant;
2. Any asset (except construction loan receivables secured by first mortgages from related companies) due from officers or stockholders of the applicant or related companies in which the applicant's officers and/or stockholders have an interest;
3. That portion of the value of any marketable security (listed or unlisted) not shown at lower of cost or market, except for any shares of FNMA stock required to be held under a servicing agreement, which should be carried at cost;
4. Any amount in excess of the lower of the cost or market value of mortgages in foreclosures, construction loans, or foreclosed property acquired by the applicant through foreclosure;

5. Any investment shown on the balance sheet in the applicant's joint ventures, subsidiaries, affiliates and/or related companies that is greater than the value of said assets at equity;

6. Goodwill;

7. The value placed on insurance renewals or property management contract renewals or other similar intangibles of the applicant;

8. Organization costs of the applicant;

9. The value of any servicing contracts held by the applicant not determined in accordance with FASB Statement No. 65, "Accounting for Certain Mortgage Banking Activities," dated September 1982, as amended by FASB No. 122, "Accounting for Mortgage Servicing Rights," dated May 1995, or subsequent revisions thereto;

10. Any real estate held for investment where development will not start within two years from the date of its initial acquisition;

11. Any leasehold improvements not being amortized over the lesser of the expected life of the asset or the remaining term of the lease; and

12. Any commitment fees paid/collected that are not recoverable through the closing or selling of loans.

"Time price differential" shall have the meaning of that term in N.J.S.A. 17:16C-1(l) and shall be computed as provided in N.J.S.A. 17:16C-41.

"Third party charges" shall have the meaning of that term in N.J.A.C. 3:1-16.2.

"Warehouse agreement" means an agreement to provide credit to a licensee to enable the licensee to have funds to close mortgage loans and hold those mortgage loans pending sale to permanent investors.

"Warehouse fee" shall have the meaning of that term in N.J.A.C. 3:1-16.2.

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

Added "Accrual basis of accounting", "Advertisement", "Application fee", "Appraisal fee", "Billing cycle", "Closed-end loan", "Commitment fee", "Controlling interest", "Credit report fee", "Depository institution", "Discount point", "Insolvent", "Lender", "Lock-in fee", "Mortgage loan", "Mortgage solicitor", "Open-end loan", "RESPA", "Settlement service", "Table funding agreement", "Tangible net worth", "Third party charges", "Time price differential", "Warehouse agreement", and "Warehouse fee".

3:15-1.3 Office requirement

(a) A licensee, except a licensee engaging solely in the sales finance company business, shall maintain a place of business in this State.

(b) A licensee may maintain more than one place of business and shall secure a license for each such branch office as required by N.J.A.C. 3:15-2.4.

(c) Each licensee that maintains more than one licensed office shall designate one licensed office as the principal office. The designation of the principal office shall be filed with the Commissioner. Any change in the designation shall be filed within 10 days of the effective date of the change. The Commissioner shall issue a new license reflecting the new designation.

(d) A licensee changing its name or changing the address of the principal office or any branch office shall comply with N.J.A.C. 3:1-7.1 and 7.4, as applicable.

(e) A person licensed as a mortgage banker, correspondent mortgage banker, mortgage broker, or secondary lender shall notify the Department of every location, other than a principal or branch office, where the licensee distributes to the public advertising materials regarding available mortgage loan products in person to consumers on a regular basis.

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

3:15-1.4 Display of license

Each sole proprietor, supervisory individual licensee, partnership, corporation or limited liability company shall conspicuously display its license at the principal New Jersey place of business. Each branch office license shall be displayed at the branch office designated thereon. All other individual licensees shall so display their licenses at the licensed office open to the public with which they are affiliated.

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

SUBCHAPTER 2. LICENSING

3:15-2.1 Requirement to be licensed

(a) After June 30, 1997, no person shall act as a mortgage banker, correspondent mortgage banker, mortgage broker, secondary lender, consumer lender, or sales finance company without holding, in good standing, a license under the Act, unless that person is exempt from licensure pursuant to sections 4, 5, or 6 of the Act.

(b) If a licensee files an application for renewal of his or her license on or before June 30, 1997, or on or before the expiration date of any subsequent biennial licensing period, the applicant or licensee may continue to transact business without interruption until such time as he or she is notified that his or her application for renewal has been denied or that his or her license has been suspended or revoked.

3:15-2.2 Application for an initial license

(a) A person applying for an initial license pursuant to the Act shall submit the following:

1. A completed application form as prescribed by the Commissioner which shall include the following:

- i. The name of the applicant, including any trade name or "doing business as" name to be utilized;
- ii. The location of the principal New Jersey place of business, except for a sales finance company that shall notify the Department of its principal New Jersey place of business if it has an office in this State, or shall notify the Department of its principal place of business in another state if it does not have an office in this State;
- iii. Information regarding officers and stockholders;
- iv. The name and address of the applicant's registered agent in this State;
- v. Information regarding incorporation, registration, and authorization to do business in this State; and
- vi. The applicant's Federal Tax Identification Number or Social Security Number, as applicable;

2. Certified consent certificates permitting the Department to make inquiries to the Department of Law and Public Safety, Division of Criminal Justice, as to any information it may have on file with respect to the applicant, that is, the person, sole proprietor, partners, corporate officers, directors and shareholders owning 10 percent or more of the shares of the corporation. The Department may make such inquiries on the basis of answers to questions in the application or on the basis of any other information which the Department receives that would make such an inquiry relevant to the decision on the application;

3. All applications for a mortgage banker license, correspondent mortgage banker license, mortgage broker license or a secondary lender license shall be accompanied by:

- i. An original executed bond, on bond forms issued by the Department, from a surety company authorized to do business in this State, which bond meets the requirements of N.J.A.C. 3:15-3.1; or
- ii. A letter from a surety company authorized to do business in this State stating that the applicant has satisfied all the requirements for the issuance of a surety bond, which meets the requirements of N.J.A.C. 3:15-3.1.

4. All applications for a corporate, partnership, limited liability company or sole proprietorship license as a mortgage banker, correspondent mortgage banker, mortgage broker, secondary lender or consumer lender shall include an unqualified audited financial statement prepared by a certified public accountant or a public accountant, in good standing, demonstrating proof of net worth as specified in N.J.S.A. 17:11C-14 (mortgage bankers, correspondent mortgage bankers and mortgage brokers), N.J.S.A. 17:11C-15 (secondary lenders), and N.J.S.A. 17:11C-16 (consumer lenders);

1. A licensed principal or branch office in this State;
2. An unlicensed site in or out of this State, provided that the licensee secures the prior approval of the Department pursuant to (c) below;
3. A licensed branch office outside of this State, provided that the licensee secures the prior approval of the Department pursuant to (c) below; or
4. In the case of a sales finance company, a licensed principal office outside of this State.

(c) The approval of the Department to keep records at a site or office specified in (b)2 and 3 above shall be given only if the licensee enters into an agreement with the Department governing the maintenance and production of records at the site. The provisions of the agreement shall include, but shall not be limited to, the designation of the site where the records will be maintained, the fees and expenses chargeable by the Department for conducting examinations and investigations, and the right of the Department to rescind the agreement.

(d) Licensees operating more than one licensed office may maintain the general ledger at their principal New Jersey office, except that a sales finance company that has no office in this State may keep the general ledger at its principal office out of state. The trial balance or balance sheet and profit and loss statement of the licensed office shall be made available upon request to the examiner or investigator at the office where the general ledger is kept.

(e) The books, accounts and records which pertain to each business activity conducted by a licensee under the Act shall be maintained separate and apart from the books, accounts and records of all non-licensed lines of business conducted by the licensee and shall be maintained so that an examiner or investigator can efficiently examine the various types of licensed activities.

3:15-6.4 Loan application recordkeeping requirements for mortgage bankers, correspondent mortgage bankers and mortgage brokers

(a) Each person licensed as a mortgage banker, correspondent mortgage banker or mortgage broker shall maintain a loan application system containing the following information for each application for a first mortgage loan:

1. The case number;
2. The application date;
3. The applicant's name;
4. The property address;
5. The disposition;
6. The type of loan; and
7. The amount of the loan.

3:15-6.5 Loan documentation file requirements for mortgage bankers, correspondent mortgage bankers and mortgage brokers

(a) Each person licensed as a mortgage banker, correspondent mortgage banker or mortgage broker shall maintain for each first mortgage loan application the following data, if utilized by the licensee in connection with the first mortgage loan application:

1. The loan application;
2. The loan commitment;
3. The Truth-in-Lending disclosure statement;
4. All disclosures required by RESPA;
5. All other written disclosures required in connection with the loan transaction by State or Federal law;
6. The loan closing statement;
7. A copy of mortgage note or bond;
8. The adverse action or rejection of application letter;
9. The appraisal report; and
10. The credit report.

3:15-6.6 Documentation requirement related to the charging of certain fees by mortgage bankers, correspondent mortgage bankers and mortgage brokers

(a) Each person licensed as a mortgage banker, correspondent mortgage banker, or mortgage broker shall maintain a recordkeeping system that shall document each of the following fees if charged to first mortgage loan applicants by the licensee:

1. Appraisal fees;
2. Credit report fees;
3. Application fees;
4. Commitment fees;
5. Warehouse fees; and
6. Third party charges.

3:15-6.7 Ledger card requirement for secondary lenders

(a) Each person licensed as a secondary lender shall maintain an individual record or ledger card for each secondary mortgage loan, which shall include the following information:

1. The account number;
2. The name and address of borrower (mortgagor);
3. The address and physical description of mortgaged property;
4. The date of the secondary mortgage loan;

5. The amount of the secondary mortgage loan;
6. The appraisal or inspection fee;
7. The credit investigation fee;
8. The title search fee;
9. Legal fees;
10. Recording and filing fees;
11. Insurance premiums and types of coverage;
12. The interest charge;
13. The full amount of the secondary mortgage loan;
14. The terms by which the secondary mortgage loan is to be repaid;
15. The amount and to whom any commissions, fees or points, if any, were paid by the licensee and the form of disbursement (for example, cash or check);
16. A record of the computation of any rebate upon prepayment of the secondary mortgage loan in full before maturity;
17. A record of the computation of any refund of unearned insurance premium charge upon prepayment of the secondary mortgage loan in full before maturity; and
18. The name and address of any subsequent holder of the secondary mortgage loan obligation if it is sold or assigned.

3:15-6.8 Loan numbering, original document envelope, and index requirement for consumer lenders

(a) Each consumer loan made shall have its proper consecutive or individual number and all instruments evidencing or securing any consumer loan shall bear the respective loan number.

(b) Each consumer lender shall maintain an alphabetical index of all borrowers, comakers, endorsers, guarantors and sureties that shall show the name of the borrower, loan number, date of loan and amount of loan.

(c) Each consumer lender shall maintain an envelope or other file for each loan in which shall be kept all the original notes, security agreements or other evidences of indebtedness or security, which have been signed by the borrower.

3:15-6.9 Documentation

(a) The borrower, or an agent applying on behalf of a borrower, shall sign each loan application. If more than one borrower applies, each borrower and each agent applying on behalf of a borrower shall sign the application.

(b) Each credit report for which an applicant is charged a separate fee shall be memorialized in a written memorandum or other written documentation. The memorandum or documentation shall indicate that the credit history of the applicant was investigated and by whom.

(c) Each appraisal report for which an applicant for a first mortgage loan or a second mortgage loan is charged a separate fee shall be memorialized in a written memorandum or other written documentation. The memorandum or documentation shall indicate that the value of the property was evaluated and by whom.

(d) Each person licensed as a mortgage banker, correspondent mortgage banker, or secondary lender shall maintain a trustee account and ledger detailing receipts and disbursement of all funds deposited by the borrower or seller with the licensee in connection with the origination or closing of any loan. The funds shall be held in accordance with the terms of a written agreement between the mortgage banker, correspondent mortgage banker or secondary lender and such borrower or seller, which provides that upon the occurrence of a specific condition or event, the funds or a portion thereof shall be disbursed to the borrower or seller. All such trust accounts shall be reconciled at least quarterly. This subsection shall not apply to escrows collected or held by the mortgage banker, correspondent mortgage banker or secondary lender for taxes or insurance.

3:15-6.10 Judgment records requirement for consumer lenders and sales finance companies

(a) When a consumer lender or sales finance company has reduced a note to judgment, the licensee shall maintain a file containing the following information:

1. The date of judgment;
2. The judgment debtor's name and address;
3. The date suit was filed;
4. The nature of the suit;
5. The name and location of the court;
6. The amount of judgment, showing the separate items comprised in the judgment as follows:
 - i. Principal;
 - ii. Interest;
 - iii. Attorney's fees;
 - iv. Court cost (itemized); and
 - v. Total amount of judgment; and
7. A description of the legal procedures followed to enforce the judgment.

(b) Consumer lenders shall maintain records of nonjudicial foreclosures of security, such as repossession pursuant to the terms of the contract.

(b) If no response is received within the time provided in any notice to suspend or revoke a license or authority to conduct any activity regulated by N.J.S.A. 17:1-1 et seq., the Department shall prepare a final order suspending or revoking the license or authority to conduct such activity, and mail a copy of the order to the violator at his or her last known business address on file with the Department.

(c) If the notice issued pursuant to this section provided for the payment of any fine, restitution or reimbursement to the Department for investigative or examination cost, and payment or proof of payment has not been received, the Department may proceed without further notice to suspend or revoke the license or authority of the violator as provided in N.J.S.A. 17:11C-53.

3:15-12.3 Consent to an administrative penalty

(a) In order for matters set forth in a notice to be deemed concluded by means of a consent by the alleged violator to the imposition of the administrative penalty or other relief described in the notice, the Department may require any or all of the following:

1. That the licensee return his or her license to the Department for cancellation;
2. The payment of a monetary penalty;
3. The reimbursement to the Department of the costs of investigation and examination;
4. The restitution of moneys owed any person; and
5. The execution of an administrative order that may include admissions of material facts, conclusions of law, and such other terms and conditions as the Commissioner, or his or her authorized designee may deem to be necessary and appropriate under the circumstances.

3:15-12.4 Request for a hearing

(a) An alleged violator shall have 20 calendar days from service of the notice of intent to impose an administrative penalty within which to deliver a written request for a hearing to: Chief of Investigations, Enforcement Bureau, New Jersey Department of Banking and Insurance, CN 040, Trenton, New Jersey 08625-0040.

(b) A request for a hearing shall include:

1. The name, address and daytime telephone number of the alleged violator;

2. A copy of the notice;

3. A statement requesting a hearing;

4. A specific admission, denial or explanation of each fact alleged in the notice, or a statement that the person is without knowledge thereof; and

5. A concise statement of the facts or principles of law asserted to constitute any factual or legal defense.

(c) If a hearing request fails to include a specific admission, denial or explanation of each fact alleged, or a statement that the person is without knowledge thereof, the facts alleged in the notice shall be deemed to have been admitted.

(d) If a hearing request lacks any of the elements in (b) above, the Department shall, by certified mail and regular mail, or by personal delivery, advise the person of the deficiencies and provide an additional 10 calendar days from the issuance of the deficiency letter to correct them. If no reply correcting the deficiencies is received by the Department within 10 calendar days, the Department may issue a final order without granting a hearing.

(e) Upon receipt of a properly completed request for a hearing, the Chief of Enforcement or such other Department personnel as may be designated by the Commissioner, shall examine the request and may conduct or direct such further proceedings as may be appropriate, including, but not limited to, an interview with the alleged violator.

(f) Not later than 60 days after the receipt of a properly completed request for a hearing, the Chief of Enforcement, or such other Department personnel as may be designated by the Commissioner, shall advise the alleged violator of the manner of disposition, which may be as follows:

1. Terminated with or without prejudice;

2. Resolved by consent order, which may provide for a lesser or different administrative penalty; or

3. A finding that the matter constitutes a contested case, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. In such a case, the Department shall transmit the matter to the Office of Administrative Law for a hearing consistent with the Uniform Administrative Practice Rules, N.J.A.C. 1:1.