

CHAPTER 15

**LICENSED LENDERS: MORTGAGE BANKERS;  
CORRESPONDENT MORTGAGE BANKERS;  
MORTGAGE BROKERS; SECONDARY LENDERS;  
CONSUMER LENDERS AND SALES FINANCE COMPANIES**

**Authority**

N.J.S.A. 17:1-15e and 17:11C-49.

**Source and Effective Date**

R.1997 d.183, effective April 21, 1997.  
See: 29 N.J.R. 525(a), 29 N.J.R. 1509(a).

**Executive Order No. 66(1978) Expiration Date**

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

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

- 3:15-1.1 Purpose and scope
- 3:15-1.2 Definitions

**SUBCHAPTER 2. LICENSING**

- 3:15-2.1 Requirement to be licensed
- 3:15-2.2 Late renewal of licenses; refiling fees

**SUBCHAPTER 3. BONDING**

- 3:15-3.1 Bond requirements

**SUBCHAPTER 4. FEES**

- 3:15-4.1 Fees—general
- 3:15-4.2 One-time administrative fee
- 3:15-4.3 Application fee for an initial license
- 3:15-4.4 License fees

**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.

“Act” means the “New Jersey Licensed Lenders Act,” P.L. 1996, c.157.

“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.

“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.

“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.

"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.

"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.

"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.

"Department" means the Department of Banking and Insurance.

"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.

"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.

"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.

"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.

“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.

“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.

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 Late renewal of licenses; refiling fees

(a) A person who submits a renewal application after the expiration of the license, but no later than 30 calendar days after such expiration, may renew by paying a refiling fee of \$50.00. A person who submits a renewal application between 31 calendar days after the expiration of the license but no later than 60 calendar days after such expiration, may renew by paying a refiling fee of \$150.00. A person who submits a renewal application between 61 calendar days after the expiration of the license but no later than 90 calendar days after such expiration, may renew by paying a refiling fee of \$300.00. A person who submits a renewal application later than 90 calendar days following the expiration of the license shall be required to submit an application as if that person were applying for an initial license.

(b) The refiling fees set forth in this section shall be as specified in (a) above regardless of the number of authorities of the licensee.

(c) Payment of the refiling fees under (a) above shall be submitted in the form of a check made payable to “Treasurer—State of New Jersey.”

(d) The fact that a person submits an application for renewal of a license following the expiration of the licensing period does not authorize that person to engage in any activity subject to licensure without having a properly renewed license. The Department may take administrative action against anyone who engages in a licensed activity without being properly licensed.

**SUBCHAPTER 3. BONDING**

**3:15-3.1 Bond requirements**

(a) A person who seeks an initial license to engage in the mortgage banking, correspondent mortgage banking business, mortgage brokering business or secondary mortgage loan business shall obtain a bond for the initial licensing period prior to submitting the first annual report as follows:

1. One authority—\$50,000;
2. Two authorities—\$75,000.

(b) All persons renewing a license for the biennial period beginning July 1, 1997 through June 30, 1999 to engage in the mortgage banking, correspondent mortgage banking business, mortgage brokering business or secondary mortgage loan business shall obtain a bond as follows:

1. One authority—\$50,000;
2. Two authorities—\$75,000.

(c) Upon submission of an annual report, licensees shall increase the amount of the bond based on the following closed loan volumes and provide proof thereof to the Department within 60 days.

1. One authority:
  - i. Closed loan volume: \$0 to \$50,000,000 \$50,000;
  - ii. Closed loan volume: \$50,000,001 to \$75,000,000 \$75,000;
  - iii. Closed loan volume: \$75,000,001 to \$100,000,000 \$100,000;
  - iv. Closed loan volume: \$100,000,001 and over \$125,000.

2. Two authorities:
  - i. Closed loan volume: \$0 to \$50,000,000 \$75,000;
  - ii. Closed loan volume: \$50,000,001 to \$75,000,000 \$100,000;
  - iii. Closed loan volume: \$75,000,001 to \$100,000,000 \$125,000;
  - iv. Closed loan volume: \$100,000,001 and over \$150,000.

**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 One-time administrative fee**

(a) A person who holds a license in good standing to engage in the mortgage banking business, correspondent mortgage banking business, mortgage brokering business, secondary mortgage loan business, consumer loan business, or sales finance company business and who seeks to continue in activities regulated by the Act shall be subject to a one-time, nonrefundable, administrative fee set forth below for each license authority renewed.

1. One authority—No fee;
2. Two authorities—\$100.00;
3. Three authorities—\$300.00;
4. Four authorities—\$400.00.

**3:15-4.3 Application fee for an initial license**

(a) A person who is applying for an initial license for a principal office under the Act shall pay an application fee to the Department in the amount of \$300.00 regardless of the number of authorities requested in the application.

(b) A person who is applying for an initial branch office license under the Act shall pay an application fee to the Department in the amount of \$200.00.

(c) A licensee who subsequently applies for an additional authority shall pay an application fee for each such application.

(d) Application fees are non-refundable.

**3:15-4.4 License fees**

(a) The license fees for licensed lenders are as follows:

1. One authority for an individual, company and/or branch: biennial fee—\$1,200; annual fee \$600.00;
2. Two authorities for an individual, company and/or branch: biennial fee—\$2,400; annual fee \$1,200;
3. Three authorities for a company and/or branch: biennial fee—\$3,600; annual fee \$1,800;
4. Four authorities for a company and/or branch: biennial fee—\$4,800; annual fee \$2,400.

(b) Applicants shall pay the biennial fee if they apply for an initial license or to renew an existing license at renewal or during the first year of the biennial period. Applicants shall pay the annual fee if they apply for an initial license during the second year of the biennial period.