

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF LICENSED LENDERS)
WITH MORTGAGE BANKER,)
CORRESPONDENT MORTGAGE BANKER,)
MORTGAGE BROKER AND/OR SECONDARY)
LENDER AUTHORITY LICENSED UNDER,)
AND MORTGAGE SOLICITORS REGISTERED)
UNDER THE NEW JERSEY LICENSED) ORDER
LENDERS ACT WHO APPLY TO TRANSITION)
TO ENGAGE IN ACTIVITY REQUIRING)
LICENSURE UNDER THE NEW JERSEY)
RESIDENTIAL MORTGAGE LENDING ACT)
BY JULY 31, 2010 AND THOSE WHO FAIL TO)
SO APPLY BY JULY 31, 2010)

This matter having been opened by the Commissioner of the Department of Banking and Insurance (“Commissioner”) pursuant to P.L. 2009, c. 53 (“the Act”) and all powers expressed or implied therein; and

IT APPEARING that sections 1 through 39 of P.L. 2009, c. 53 enacted the New Jersey Residential Mortgage Lending Act, (“RMLA” or “the Act”) which, together with rules adopted by the Commissioner on June 21, 2010 (See 42 N.J.R. 1139(b)), created a system for the licensure of business entities and individuals engaged in the business of residential mortgage lending and brokerage, including loan origination, which is compliant with the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 U.S.C. §5101 (“SAFE Act”); and

IT FURTHER APPEARING that in accordance with [Order No. A09-112](#) issued on September 30, 2009, subject to further order of the Commissioner, all mortgage banker,

correspondent mortgage banker, mortgage broker and secondary lender licenses and mortgage solicitor registrations issued under the New Jersey Licensed Lenders Act, N.J.S.A. 17:11C-1 et seq. (“the LLA”), are scheduled to expire at 11:59 p.m. Eastern Time on July 31, 2010; and

IT FURTHER APPEARING that the authority of individuals and business entities currently licensed or registered under the LLA, but not licensed or conditionally approved under the RMLA, to engage in regulated activity in New Jersey related to the making and brokering, including the origination, of residential mortgage loans has been scheduled to expire on July 31, 2010; and

IT FURTHER APPEARING that it is essential to the economy of New Jersey and to the welfare of its residents to maintain the continuity of an adequate number of authorized providers of residential mortgage lending, brokerage and origination services to serve the needs of persons desiring to finance the purchase residential real estate or to refinance existing loans secured by mortgages on residential real estate in this state; and

IT FURTHER APPEARING that, pursuant to Section 74 of P.L. 2009, c. 53, the Commissioner is authorized to take anticipatory administrative action necessary to implement the provisions of that legislation; and

IT FURTHER APPEARING that in Order No. A09-112 and again in Order No. A10-102 issued on February 9, 2010 the Commissioner clearly and repeatedly specified dates for the filing of applications to transition from licensure or registration under the LLA to licensure under the RMLA in order to facilitate the review of such applications, anticipated to number in the thousands, prior to July 31, 2010; and

IT FURTHER APPEARING that the large proportion of transition applications for business entity licenses filed both before and after the due dates specified in Order Nos. A09-112 and A10-102 that still remain incomplete as of the date of this Order will prevent the Department from issuing conditional approvals for licensure under the RMLA by July 31, 2010 to many business entity transition applicants and to all individuals whose applications for licensure as a qualified individual licensee or a mortgage loan originator were, in accordance with the RMLA, sponsored by such business entities; and

IT FURTHER APPEARING that the rules proposed by the U.S. Department of Housing and Urban Development (“HUD”) to implement the SAFE Act, published in the December 15, 2009 Federal Register, provide, at proposed 24 C.F.R. 3400.109(b) and (c), that a state may delay the effective date of the requirements to be imposed by its SAFE compliant licensing system to no later than December 31, 2010 for individuals permitted to perform residential mortgage loan originations under state laws or regulations enacted or promulgated prior to the State’s enactment of legislation establishing a SAFE compliant licensing system in circumstances where, through no fault of their own or of the state government, substantial numbers of mortgage loan originator license applicants face unusual hardship in obtaining state licenses by July 31, 2010; and

IT FURTHER APPEARING that, under the RMLA, at N.J.S.A. 17:11C-54, and P.L. 2009, c. 53, at Section 74, an extension of the effective date of the RMLA licensing requirements beyond July 31, 2010 is contemplated; and

IT FURTHER APPEARING that HUD has been given prior notice of the substance of this Order; and

IT FURTHER APPEARING that it is in the best interest of the licensed community, the Department and the public for the Department to provide for the uninterrupted transition to licensure under the RMLA of individuals and business entities currently licensed or registered under the LLA who applied for licensure under the RMLA by 11:59 p.m. Eastern Time on July 31, 2010;

NOW, THEREFORE, IT IS on this 26th day of July, 2010 ORDERED that:

1. The July 31, 2010 expiration date of the licenses and registrations of all individuals and business entities licensed or registered under the LLA who shall have applied for licensure under the RMLA through the NMLS&R by on or before 11:59 p.m. Eastern Time on July 31, 2010 shall be and hereby is extended until 11:59 p.m. Eastern Time on October 31, 2010, or until the holder of the license or registration is conditionally approved for licensure under the RMLA, whichever is earlier. Hereinafter, such individuals and business entities are referred to as “extended LLA licensees” or “extended solicitor registrants,” as the case may be.

2. Extended LLA licensees and extended solicitor registrants shall continue to operate in accordance with all provisions of Title 17 of the New Jersey Statutes Annotated and Title 3 of the New Jersey Administrative Code applicable to licensees and registrants under the LLA, which requirements and provisions shall be deemed incorporated in this Order as if fully set forth herein, until 11:59 p.m. Eastern Time on October 31, 2010 or until such individuals or businesses are conditionally approved for licensure under the RMLA, whichever is earlier.

3. Commencing August 1, 2010, individuals and businesses licensed or registered under the LLA who have not applied for licensure under the RMLA by 11:59

p.m. Eastern Time on July 31, 2010 and who, therefore, are not extended LLA licensees or extended solicitor registrants as referenced herein, shall, as a result of the expiration of their LLA license or registration:

a. Lack authority to conduct and shall cease conducting new business, including advertising, soliciting or originating residential mortgage loans for which New Jersey licensure or registration would be required by law, until licensed or conditionally approved under the RMLA pursuant to an application for licensure, which application shall be treated as a new application and not an application to transition from licensure or registration under the LLA to licensure under the RMLA;

b. Refrain from taking any new mortgage loan applications from New Jersey borrowers or borrowers from other states to be secured by New Jersey residential real estate; and

c. Refrain from allowing, enabling, or facilitating any unlicensed persons from engaging on their behalf in any activity requiring licensure by the Commissioner pursuant to the RMLA, including but not limited to, acting as a residential mortgage lender, a residential mortgage broker, a qualified individual licensee or a mortgage loan originator.

4. Commencing August 1, 2010, business entities who failed to apply for licensure under the RMLA by 11:59 p.m. Eastern Time on July 31, 2010 and who, therefore, are not extended LLA licensees, shall:

a. On any loans closed prior to 11:59 p.m. Eastern Time on July 31, 2010, complete the transaction by close of business on August 13, 2010

through funding it directly or, if funding is unavailable, indirectly by referring the borrower to a viable and properly credentialed alternative funding source;

b. On any loans originated but not closed prior to 11:59 p.m. Eastern Time on July 31, 2010, refer all such borrowers to a viable and properly credentialed alternative lender or broker by close of business on August 6, 2010;

c. Provide to the Commissioner a report on August 2, 2010, detailing the identity and status of all loans subject to paragraph 4a of this Order, and update such report on a daily basis through August 13, 2010 or the day on which all such matters are complete, whichever is later;

d. Provide to the Commissioner a report on August 2, 2010 detailing the identity and status of all loans subject to paragraph 4b of this Order, and update such report on a daily basis through August 6, 2010 or the day on which all such matters have been referred to a properly credentialed alternative lender or broker, whichever is later; and

e. Provide to the Commissioner a list of the names of all principals, officers, control person(s) and solicitors associated with the business entity as of August 1, 2010.

5. Commencing on August 1, 2010 extended LLA licensees may conduct new residential mortgage lending or brokerage business, as applicable, but may do so only through properly affiliated extended individual LLA licensees and extended solicitor registrants.

6. Commencing on August 1, 2010, conditionally approved residential mortgage lenders, correspondent residential mortgage lenders and residential mortgage brokers shall be subject to the provisions of the RMLA and its implementing rules, and may only perform licensed activities through properly affiliated conditionally approved qualified individual licensees and mortgage loan originators or through properly affiliated extended individual LLA licensees and extended solicitor registrants.

7. On or about August 2, 2010, information on business entities and individuals who have been conditionally approved for licensure under the RMLA will be accessible through a link to the website of the NMLS&R which will appear on the website of the Department at www.state.nj.us/dobi/banklicensing/nmlsstatus.htm. Business entities and individuals that qualify as extended LLA licensees and individuals that qualify as extended solicitor registrants will be identified as licensed or registered, as applicable, on the “Banking Licensee Search” feature of the Department’s website at www.state.nj.us/dobi/licenseesearch/licsearch.htm.

8. Extended LLA licensees and extended solicitor registrants who have not submitted complete applications for RMLA licensure shall be required to fulfill all application requirements and cure all deficiencies in their pending applications as identified in the record of their application maintained by the NMLS&R by 11:59 p.m. Eastern Time on September 30, 2010.

9. The failure of an extended LLA licensee or extended solicitor registrant to complete an application and cure all deficiencies by 11:59 p.m. Eastern Time on September 30, 2010, will result in the expiration of the applicant’s authority to continue to engage in activity as such effective at 11:59 p.m. Eastern Time on October 31, 2010,

whereupon all of the provisions set forth in paragraphs 3a, b and c above shall apply to any such business entity and individual.

10. Upon expiration of the authority of an extended LLA licensee business entity at midnight on October 31, 2010, that licensee shall:

- a. On any loans closed prior to 11:59 p.m. Eastern Time on October 31, 2010, complete the transaction by close of business on November 12, 2010 through funding it directly or, if funding is unavailable, indirectly by referring the borrower to a viable and properly credentialed alternative funding source;
- b. On any loans originated but not closed prior to 11:59 p.m. Eastern Time on October 31, 2010, refer all such borrowers to a viable and properly credentialed alternative lender or broker by close of business on November 5, 2010;
- c. Provide to the Commissioner a report on November 1, 2010, detailing the identity and status of all loans subject to paragraph 10a of this Order, and update such report on a daily basis through November 12, 2010 or the day on which all such matters are complete, whichever is later;
- d. Provide to the Commissioner a report on November 1, 2010 detailing the identity and status of all loans subject to paragraph 10b of this Order, and update such report on a daily basis through November 5, 2010 or the day on which all such matters have been referred to a properly credentialed alternative lender or broker, whichever is later; and

e. Provide to the Commissioner a list of the names of all principals, officers, control person(s) and solicitors associated with the business entity as of November 1, 2010.

Business entities licensed under the LLA shall immediately disseminate this Order to their licensed individuals and registered mortgage solicitors.

Business entities conditionally approved for licensure under the RMLA shall immediately disseminate this Order to all of their conditionally approved qualified individual licensees and conditionally approved mortgage loan originators and to such extended LLA licensee individuals and solicitor registrants as they may employ.

Nothing contained herein shall be deemed a waiver of the rights and authority of the Commissioner to enforce the provisions of the LLA and RMLA, and to withdraw, suspend or revoke any conditional approval or authority conferred hereunder for failure to comply with the terms of this Order or any future order of the Commissioner or on such other grounds as may be applicable and appropriate.

A failure by a licensed, registered or conditionally approved individual or business entity to comply with the provisions of this Order will subject such person to sanctions pursuant to N.J.S.A. 17:11C-18 and/or N.J.S.A. 17:11C-70.



Thomas B. Considine
Commissioner