

BANKING

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF BANKING

Foreclosure Consultants

Proposed New Rules: N.J.A.C. 3:18

Proposed Amendments: N.J.A.C. 3:1-7.6; 3:5-1.1, 2.1, and 4.4; and 3:23-2.1.

Authorized By: Kenneth E. Kobylowski, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-15.e and 46:10B-68.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2013-073.

Submit comments by July 5, 2013 to:

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Summary

On December 20, 2011, the Foreclosure Rescue Fraud Prevention Act, P.L. 2011 c. 146, codified as N.J.S.A. 46:10B-53 et seq. (“the Act”), was signed into law. Among other things, the Act set forth the licensing requirements for foreclosure consultants in the State of New Jersey. In addition the Act included an amendment to N.J.S.A. 17:1C-34, adding foreclosure consultants to the list of “other financial entities” in the funding mechanism of the Division of Banking (“dedicated funding”).

The Department of Banking and Insurance (“the Department”) proposes adding foreclosure consultants to the list of other regulated entities in rules concerning dedicated funding of the Division of Banking. Specifically, foreclosure consultants are added to N.J.A.C. 3:1-7.6 concerning the late filing of annual reports and/or late payment of assessments; N.J.A.C. 3:5-1.1, which lists the entities to whom dedicated funding applies; N.J.A.C. 3:5-2.1, which defines “other financial entities”; and N.J.A.C. 3:5-4.4(c)1xi, which states how the Department determines the volume assessment for the purposes of calculating dedicated funding assessments. In addition, the definition of “authority” is deleted from N.J.A.C. 3:5-2.1 as the Department no longer uses the differentiation of authority in calculating assessments for dedicated funding. Also deleted from the list of regulated entities is the reference to the New Jersey Licensed Lenders Act P.L. 1996, c. 157 (N.J.S.A. 17:11C-1 et seq.), as that Act has been reformed and replaced by the New Jersey Residential Mortgage Lending Act, N.J.S.A. 17:11C-51 et seq., and the New Jersey Consumer Finance Licensing Act, N.J.S.A. 17:11C-1 to 43. Lastly, N.J.A.C. 3:23-2.1 is amended to set forth the application fees required for the licensing of foreclosure consultants.

Proposed new N.J.A.C. 3:18 sets forth the licensing and compliance requirements for foreclosure consultants.

Proposed N.J.A.C. 3:18-1.1 sets forth the purpose and scope of the chapter which is to prescribe the requirements applicable to the licensure and operations of foreclosure consultants pursuant to N.J.S.A. 46:10B-53 et seq. as applied to all persons who act, offer to act, or hold themselves out as foreclosure consultants in this State.

Proposed N.J.A.C. 3:18-1.2 sets forth definitions of “Act,” “business entity,” “business licensee,” “conventional mortgage rate,” “distressed property,” “distressed property conditional conveyance,” “distressed property conveyance,” “distressed property owner,” “distressed property owner’s current verified monthly income,” “distressed property purchaser,” “distressed property relief” or “relief,” “distressed property service” or “service,” “foreclosure consultant,” “foreclosure consultant agreement,” “individual,” “individual licensee,” “licensee,” “reasonable ability to pay,” “reasonable and necessary living expenses,” and “residual income.”

Proposed N.J.A.C. 3:18-1.3(a) requires a business licensee to specify the principal location from which the business licensee shall conduct foreclosure consulting activity and at which it may be contacted by the Department.

Proposed N.J.A.C. 3:18-1.3(b) provides that any licensee changing its name, the address of its principal office, or its e-mail address must comply with N.J.A.C. 3:1-7.1 or 7.4.

Proposed N.J.A.C. 3:18-2 sets forth the licensing requirements for foreclosure consultants.

Proposed N.J.A.C. 3:18-2.1(a) states that no person shall act as, offer to act as, or hold himself out to be a foreclosure consultant in this State unless licensed as a foreclosure consultant by the Department.

Proposed N.J.A.C. 3:18-2.1(b) sets forth a list of those not required to be licensed as foreclosure consultants, including the holders of several professional licenses to the extent that they are acting in their normal capacity under those licenses. Proposed N.J.A.C. 3:18-2.1(b)1 sets forth an exemption for housing counseling agencies which are certified by the United States Department of Housing and Urban Development (HUD) to provide counseling. This provision is designed to implement N.J.S.A. 46:10B-54 which references such housing counseling agencies and HUD.

Proposed N.J.A.C. 3:18-2.1(c) states that an individual licensee shall only engage in foreclosure consultant activity while employed by a business licensee. It further states that an individual licensee shall not be employed by more than one business licensee at any given time. Further, an individual licensee shall only receive compensation on behalf of the business licensee by which he or she is employed. Except for compensation which is payable to the business licensee, an individual licensee shall not receive or solicit any compensation for foreclosure consulting directly from a distressed property owner.

Proposed N.J.A.C. 3:18-2.1(d) states that the business licensee shall be responsible for the foreclosure consulting activities of all individuals licensees employed by it.

Proposed N.J.A.C. 3:18-2.2 sets forth the application requirements for licensure.

Proposed N.J.A.C. 3:18-2.2(a) requires that an application for a business license shall specify the applicant's legal name, the locations where the applicant will engage in business, mailing and e-mail addresses, principal business location, the location of where records will be maintained, and identify all owners, principals, officers, directors and stockholders holding 10 percent or more of the company. In addition, proposed N.J.A.C. 3:18-2.2(a)2 requires the business applicant to submit evidence of submission to a criminal history check by the

foregoing individuals. Proposed N.J.A.C. 3:18-2.2(a)3 requires the disclosure of any revocation, denial, or suspension of, and any restraint upon any professional license held or sought by any of those individuals. Proposed N.J.A.C. 3:18-2.2(a)4 requires the submission of a bond. Proposed N.J.A.C. 3:18-2.2(a)5 requires an unqualified audited financial statement prepared by a certified public accountant or a public accountant in good standing. Proposed N.J.A.C. 3:18-2.2(a)6, 7, and 8 require the submission of documentation confirming that the business entity is authorized to do business in the State of New Jersey. Proposed N.J.A.C. 3:18-2.2(a)9 requires a non-refundable \$500.00 application fee. Proposed N.J.A.C. 3:18-2.2(a)10 requires a certification that all the personal identification and financial information of all their clients shall be maintained in accordance with all Federal and State laws and rules applicable to personal identification and financial information. Proposed N.J.A.C. 3:18-2.2(a)11 requires a certification that the principal office of the business licensee is in compliance with all applicable local laws and ordinances.

Proposed N.J.A.C. 3:18-2.2(b) sets forth the application requirements for an individual license for an applicant that is a natural person who will be employed by a business licensee, including a complete application, a non-refundable \$100.00 application fee, the completion of a criminal history background check through fingerprinting, and a personal certification.

Proposed N.J.A.C. 3:18-2.2(c) states that the applicant shall bear all costs including those associated with completion of the criminal history record background checks.

Proposed N.J.A.C. 3:18-2.3 sets forth the terms of licenses. Proposed N.J.A.C. 3:18-2.3 states that the term for foreclosure consultant licenses issued after July 1, 2013, shall be two years. After the July 1st of 2013 through June 30th of 2015 term, all succeeding terms will also run for two years and licenses which are issued, renewed or reinstated in a license

term will expire on June 30 of the odd year in which that term shall expire. All licenses which are renewed on June 30th of an odd year will expire, notwithstanding any other actions to discontinue or revoke that license, in two years on June 30th of the following odd year, except in the event of regulatory or voluntary action terminating the license in the interim.

Proposed N.J.A.C. 3:18-2.4 sets forth the requirements for the application for renewal of a license. Proposed N.J.A.C. 3:18-2.4(a) sets forth the requirements for renewal applications specifically, the applicant's name, location of the principal place of business, a certification that the applicant has the required bond coverage in place, and a certification that all information on the original application is in effect or has been subsequently changed with notice to the Department in accordance with proposed N.J.A.C. 3:18-2.8, and is currently in effect. Proposed N.J.A.C. 3:18-2.4(b) states that no license shall be renewed unless all assessments due and owing to the Department as of the expiration of the current license are paid and proposed N.J.A.C. 3:18-2.4(c) states that no license shall be renewed if it is established that grounds for the non-renewal of the license as set forth in proposed N.J.S.A. 46:10B-55.b exist.

Proposed N.J.A.C. 3:18-2.5 sets forth the requirements for late renewal of licenses. Proposed N.J.A.C. 3:18-2.5(a) states that license terms for new licensees shall run from the date of issuance of the license until June 30 of the renewal year which is the following odd numbered year. Proposed N.J.A.C. 3:18-2.5(b) states that a person who submits a renewal application for a business or individual license after the expiration date but no later than the last day of July of the license expiration year may be renewed upon payment of a late renewal fee of \$50.00. Proposed N.J.A.C. 3:18-2.5(c) states that applications for reinstatement of licenses will be accepted with reinstatement fees of \$250.00 and \$50.00 for expired business

and individual licensees, respectively, for a period of six months following the expiration of a license. After the six-month period, the person will be treated as an applicant for a new license and be required to submit a complete application. Proposed N.J.A.C. 3:18-2.5(d) provides that the act of submitting an application for late renewal or reinstatement does not authorize a person who is either an individual or a business licensee to engage in the activity of foreclosure consulting prior to the issuance of a properly renewed or reinstated license. Any person engaging in foreclosure activity without a properly renewed or reinstated license will be subject to this chapter's provisions applicable to unlicensed foreclosure consultant activity. Proposed N.J.A.C. 3:18-2.5(e) states that if an individual licensee is employed by a business licensee who has not renewed or reinstated their license, that individual licensee shall not be renewed or reinstated until the business licensee by which he or she is employed is renewed or reinstated. Proposed N.J.A.C. 3:18-2.5(g) states that late renewal and reinstatement application fees are nonrefundable.

Proposed N.J.A.C. 3:18-2.6 sets forth the procedures to be followed when a business licensee discontinues foreclosure consulting activity. Proposed N.J.A.C. 3:18-2.6(a) states that when a business licensee discontinues foreclosure consultant activity in New Jersey, the business licensee shall surrender the entity's current license as well as the license of each individual licensee employed by the business licensee. The business licensee shall also provide written notice of the discontinuation of the business license to each individual licensee employed by the business licensee as well as to all customers with pending foreclosure consultant agreements. The written notice to such consumers shall identify any entity that agreed to complete the providing of foreclosure consultant services to such consumers under the terms of the business licensee's pending foreclosure consultant contract

and set forth the owner's option to continue with the new designated entity or to terminate the agreement. The business licensee shall also furnish proof of those notifications to the Department. The business licensee shall also provide copies of any foreclosure consultant agreements being processed as of the date of the notice and a summary of the following: the total number of any such agreements together with consumer names and addresses and the property address for each agreement; the location of the files of pending foreclosure consultant agreements; the location of records required to be maintained under New Jersey law and regulations; any arrangements that have been made to have other entities complete the providing of foreclosure consulting services on any such agreements, together with complete information on the name, address, telephone number, and contact person of the entities involved in such arrangements; copies of the notices sent to the distressed property owners who were parties to such agreements providing to the owner the option to continue with the new designated entity or to terminate the agreement; copies of all filed and unfiled discharges of record of foreclosure consultant contracts which have been fully performed, with an indication of whether the discharge has been received by the distressed property owner; and the name and telephone number of person(s) within the licensee's operation designated to handle consumer questions or problems that may arise.

Proposed N.J.A.C. 3:18-2.6(b) states that a business licensee discontinuing foreclosure consultant activity shall also satisfy all filing requirements including the final annual report for the portion of the calendar year in which the foreclosure consultant discontinues its licensed business operations in New Jersey; pay all assessments due and owing and prepay the base assessment for the year in which foreclosure consulting activity was discontinued by paying the amount of the most recently billed base assessment within 15 days after ceasing

business or being acquired. In the event that the said amounts are not paid, the Department shall proceed against the bond. Adjustments to the base assessment, if any, and the final volume assessment for the year of discontinuance will be billed in the year following the discontinuance. In the event of an acquisition, the amount carried forward shall be paid by the acquiring entity. The business licensee shall also identify, in writing, the name, address, and phone number of the person within the licensee's operation responsible for the payment of assessments and for satisfying all outstanding obligations owed to the Department.

Proposed N.J.A.C. 3:18-2.6(c) states that an individual licensee whose relationship with a business licensee has been terminated, either by the individual licensee or the business licensee, shall not engage in foreclosure consulting activity until their application for licensure with another business licensee has been approved by the Department.

Proposed N.J.A.C. 3:18-2.6(d) states that when an individual licensee discontinues foreclosure consultant activity in New Jersey, the licensee shall notify the business licensee by which he or she is employed of the discontinuation in writing and shall forward to the Department proof of such written notification along with a certification attesting to their discontinuance of foreclosure consultant activity in New Jersey.

Proposed N.J.A.C. 3:18-2.6(e) states that to be licensed as a foreclosure consultant after termination of a relationship with an employing business licensee, an individual licensee shall complete an application which shall include the name of the new business licensee by whom he or she will be employed, a certification stating that their employment by the former business licensee has been terminated, and a certification from the new business licensee stating that it will employ the individual as a foreclosure consultant upon approval of the application.

Proposed N.J.A.C. 3:18-2.7 sets forth notification requirements if any previously required information already submitted to the Department is changed. To insure that the Department's information on the licensee remains current and up to date, proposed N.J.A.C. 3:18-2.7(a) requires a licensee to inform the Department in writing within 20 days of a change.

Proposed N.J.A.C. 3:18-2.7(b) states that if the change is a result of the sale, transfer, or change of control of an ownership interest of 10 percent or more of the foreclosure consultant business, the business licensee must submit evidence of submission to a criminal history record background check for any new individual. Likewise, for each new officer, director, and partner, a business licensee shall submit evidence of submission to a criminal history record background check.

Proposed N.J.A.C. 3:18-2.7(c) sets forth the address to which notification of change and evidence of submission of requests for criminal history record background checks shall be forwarded.

Proposed N.J.A.C. 3:18-2.7(d) requires a business licensee to notify the Department in writing within 15 days of the occurrence of arrests, indictments, or convictions of the business licensee or any officer, director, partner, member, owner, or substantial stockholder of the business licensee whether in this State, another state, or any Federal jurisdiction. Any offense, crime, or misdemeanor, except for a motor vehicle violation, must be reported. Notification must also be made within 15 days for any revocation, denial, suspension, or restraint of a business or professional license, registration, certificate, or other right to engage in business issued to the licensee, or to any officer, director, partner, member, owner, or substantial stockholder of the business licensee, or to any affiliate thereof, by this State, by another state,

by the Federal government, or by any agency or instrumentality, as well as the filing of a petition for bankruptcy or reorganization by the licensee, or by any officer, director, partner, member, owner, or substantial stockholder of the licensee, or by any affiliate thereof. Lastly, the entry of any final judgment in a civil or administrative action against the licensee upon the grounds of fraud, misrepresentation, deceit or breach of contract must be reported.

Proposed N.J.A.C. 3:18-2.7(e) states that an individual licensee must notify the Department in writing within 15 days of the occurrence of an arrest, indictment or conviction of the licensee in this State, in another state, or in any Federal jurisdiction for any offense, crime or misdemeanor, except for a motor vehicle violation; the revocation, denial, suspension, or restraint of a business or professional license, registration, certificate, or other right to engage in business issued to the licensee by this State, by another state, by the Federal government, or by any agency or instrumentality thereof; the fining, penalizing or disciplining of the licensee by this State, by another state, by the Federal government, or by any agency or instrumentality thereof; and the entry of any final judgment in a civil or administrative action against the licensee upon the grounds of fraud, misrepresentation, deceit, or breach of contract.

Proposed N.J.A.C. 3:18-3 sets forth the bond requirements for business licensees. Business licensees are required by proposed N.J.A.C. 3:18-3.1 to provide a blanket bond covering the business licensee, all individual foreclosure consultant licensees employed by the business licensee, and all other persons employed by the business licensee, and requires the amount of the bond for a business entity seeking an initial license to be \$75,000. At any time, the Department may require an increase of a bond amount after evaluating the volume of business a foreclosure consultant is doing in the State, the number of individual licensees

employed by the business licensee, and the amount of compensation received for rendering distressed property services. If after evaluating the foregoing, the Department determines that the current amount of the bond is insufficient, the Department may require an increase in the foreclosure consultant's bond to a maximum of \$250,000. Any bond using the bond form found on the Department website, in an amount as required by these regulations shall be considered sufficient for approval.

Proposed N.J.A.C. 3:18-3.2 states that the bond shall run to the State of New Jersey, pro rata, for the benefit of New Jersey consumers injured by the wrongful act, omission, default, fraud, or misrepresentation of the foreclosure consultant in the course of activity authorized by the license, and for the benefit of the Department for unpaid penalties, unpaid assessments, and any other unpaid obligations of the foreclosure consultant, including, but not limited to, returned items submitted to the Department in payment of penalties, charges, assessments, or fees.

Proposed N.J.A.C. 3:18-3.3 states that the surety company shall pay consumers' claims based on the damages directly incurred as a result of the wrongful act, default, fraud, or misrepresentation of the business licensee or any employee of such licensee. It further states that attorney's fees, pre- or post-judgment interest, court costs, and similar charges are not recoverable through the bond, unless such charges are included in a final judgment against the licensee and the surety company was given prior notice of the court action and an opportunity to respond, and that the bond shall not be payable for claims made by business creditors. Lastly, N.J.A.C. 3:18-3.3 states that the bond shall not be payable for treble damage claims pursuant to the Consumer Fraud Act or any other State or Federal law.

Proposed N.J.A.C. 3:18-3.4 states that a business licensee shall submit to the Department the original executed surety bond or the original rider to the original executed surety bond. If the business licensee changes its surety company or the bond is otherwise amended, the business licensee shall immediately provide the Department with the amended original executed surety bond or the amended original rider to the original executed surety bond.

Proposed N.J.A.C. 3:18-3.5 provides that a surety company shall not cancel a bond for any cause unless written notice of its intention to cancel is filed with the Department at least 30 days before the day upon which cancellation shall take effect. Cancellation without such notice shall not be effective.

Proposed N.J.A.C. 3:18-3.6 states that when a person submits a claim to a surety company against the bond of a business licensee, the surety company shall immediately notify the Department and shall not pay any claim unless and until directed to do so by the Department.

N.J.A.C. 3:18-3.7 sets forth the procedure on providing notice of a claim against the bond when the Department receives notice from a surety company of a claim against a business licensee that appears valid, a consumer is unable to obtain payment of a court judgment that was obtained against the licensee, or the Department, in its sole discretion, otherwise determines it is necessary and proper to do so. The Department shall cause a notice to be published once a week for three successive weeks in a newspaper having general circulation in the area where the business licensee conducts or conducted business in this State and on the Department's website advising consumers of their right to file claims against the bond. The Department is not required to publish notice when it has a claim against the

bond for an unpaid assessment or any other fee, charge, or penalty if there are no consumer claims or complaints on record with the Department that appear valid and that may require payment from the bond.

Proposed N.J.A.C. 3:18-3.8 sets forth the priority of claims against bonds. The Department shall review all timely consumer claims made against the bond of a business licensee and decide which claims are valid. The Department shall submit all timely valid claims to the surety company to share pro rata in the proceeds of the bond. The Department shall then submit to the surety company a claim for the payment of claims it has against the licensee for any unpaid penalties, charges, assessments, or fees. Consumers submitting claims after the filing date set forth in the published notice but before the expiration of the applicable statute of limitations period shall recover next against the bond in the order that the claims are submitted.

Proposed N.J.A.C. 3:18-4 sets forth the requirements for distressed property purchaser disclosures. Proposed N.J.A.C. 3:18-4.1(a) requires a licensee to provide written notice to a distressed property owner prior to the completion of a distressed property conveyance that a distressed property purchaser is required to provide to that owner a disclosure statement pursuant to N.J.S.A. 46:10B-64.d, setting forth in at least 14-point type all costs and fees that the owner will incur in connection with the conveyance. A distressed property purchaser shall provide a disclosure statement in the form available on the Department's website and the licensee shall maintain, as a business record, proof of having provided such notice to the distressed property owner.

Similarly, proposed N.J.A.C. 3:18-4.1(b) states that a licensee shall provide written notice to a distressed property owner prior to the completion of a distressed property

conditional conveyance that a distressed property purchaser is required to provide to the owner a disclosure statement, in at least 14-point type setting forth all costs that the owner will incur in connection with the conveyance and in connection with any option for the owner to repurchase the property, including a schedule of monthly and annual payments, closing costs, and any additional costs and fees related to the distressed property conditional notice. A purchaser in a distressed property conditional conveyance shall provide the required conveyance in the form available on the Department's website and the licensee shall maintain, as a business record, proof of having provided such notice to the distressed property owner.

Proposed N.J.A.C. 3:18-5 sets forth the requirements for licensee's books, records, and contracts.

Proposed N.J.A.C. 3:18-5.1(a) requires each business licensee to maintain books and records in accordance with recognized accounting principles.

Proposed N.J.A.C. 3:18-5.1(b) states that each business licensee shall retain copies of foreclosure consultant contracts in compliance with N.J.A.C. 3:18-5.3

Proposed N.J.A.C. 3:18-5.2 states that a business licensee may reproduce documents and records relating to the operation of its business for the purpose of complying with this subchapter and may substitute the copy for the original.

Proposed N.J.A.C. 3:18-5.3(a) requires each business licensee to notify the Department of the location where its business books, accounts, and records are stored and requires that they be maintained as confidential in accordance with applicable Federal and State law and rules. If a business licensee proposes to relocate such records, the licensee shall notify the Department prior to the move.

Proposed N.J.A.C. 3:18-5.3(b) requires that books, accounts, and records which pertain to the business activity conducted by the licensee under the Act be maintained in a manner that preserves the confidentiality of the financial and identity information provided by consumers. These records should be kept separate and apart from the books, accounts, and records of all other types of business conducted by the licensee and maintained in a manner as to enable prompt and efficient examination of licensed activities.

Proposed N.J.A.C. 3:18-5.3(c) requires preservation of all books, records, accounts, agreements, and documents related to the business for a minimum of three years after entry into a foreclosure consultant agreement on which no compensation was received by the licensee. After having rendered distressed property services in accordance with the Act and N.J.A.C. 3:18, and having received compensation, the business licensee shall preserve the materials referenced above for three years from the licensee's receipt of the compensation.

Proposed N.J.A.C. 3:18-5.3(d) states that all books, records, accounts, agreements, and other documents may be stored electronically so long as the electronically stored information can be produced in electronic format upon request by the Department or reproduced on paper and delivered to the Department within five days of the business licensee's receipt of a request from the Department to produce the records.

Proposed N.J.A.C. 3:18-5.4 sets forth the requirements for the content and delivery of a foreclosure consultant contract.

Proposed N.J.A.C. 3:18-5.4(a) requires foreclosure consultant contracts to be written in plain language and shall include the distressed property relief to be secured and the term of the contract, which shall not exceed 18 months from the date on which the contract is fully executed. The contract shall also and to fully disclose the foreclosure consultant's services to

be performed, the foreclosure consultant's representations, and the date the distressed property owner signed the contract. It shall also disclose the name and address to which the notice of cancellation should be mailed.

Proposed N.J.A.C. 3:18-5.4(b) requires that a foreclosure consultant contract include a notice stating that the individual foreclosure consultant licensee or anyone working for the foreclosure consultant business licensee may not: 1) take or ask for any money from the distressed property owner until everything that the individual and business licensee have said will be done is finished; 2) ask the distressed property owner to sign any lien, mortgage, or deed unless all the provisions of the Act and any other Federal or state laws have been complied with; and 3) guarantee that they will be able to refinance a loan on your home or arrange for an individual to keep their home.

Proposed N.J.A.C. 3:18-5.4(c) states that the foreclosure consultant contract shall be written in the same language used by the foreclosure consultant to describe the consultant's services to be performed and the distressed property relief to be secured for the distressed property owner, shall be dated and signed by the owner and shall contain a notice in immediate proximity to the distressed property owner's signature a conspicuous statement in 14-point boldface, if printed or in capital letters if typed, a notice of the right to cancel.

Proposed N.J.A.C. 3:18-5.4(d) states that the foreclosure consultant contract shall contain on its first page, in a type no smaller than that used in the body of the document, the name and address of the foreclosure consultant business licensee to which the notice of cancellation is to be mailed and the date the distressed property owner signed the contract.

Proposed N.J.A.C. 3:18-5.4(e) sets forth the requirement that a completed, easily detachable notice of cancellation form be attached to the foreclosure consultant contract. The

notice of cancellation shall contain in at least 14-point type, if printed or in capital letters if typed, a statement in the same language as used in the contract. The notice shall state that the distressed property owner may cancel the transaction without any penalty or obligation at any time until the foreclosure consultant business licensee has fully performed every service and has secured relief for the distressed property owner. The notice will further state that in order to cancel the transaction the distressed property owner will mail or deliver a signed and dated copy of the cancellation notice to the foreclosure consultant business licensee at the included address. The cancellation notice will have a blank for the date and the distressed property owner's signature.

Proposed N.J.A.C. 3:18-5.4(f) sets forth the requirement that the individual foreclosure consultant licensee shall provide the distressed property owner with a copy of the foreclosure consultant contract and the attached notice of cancellation in duplicate immediately upon execution of the contract.

Proposed N.J.A.C. 3:18-5.5 sets forth the requirements for recording foreclosure consultant contracts and notices of cancellation. The recording of the foreclosure consultant contract is required by the Act. The recording of the notice of cancellation of a previously recorded contract is necessary to ensure that a conveyance is not impeded by the effect of the recorded foreclosure consultant contract on the title to the distressed property.

Proposed N.J.A.C. 3:18-5.5(a) states that a foreclosure consultant business licensee shall record the contract with the county clerk in the county in which the distressed property is located, within 10 business days of the distressed property owner's signing. This subsection also states that the term "county clerk" also refers to the Register of Deeds and Mortgages in counties in which instruments affecting real property are recorded with such officials.

Proposed N.J.A.C. 3:18-5.5(b) requires foreclosure consultant contracts to be in recordable form in accordance with N.J.S.A. 46:26A-1 et seq., with all signatures acknowledged, and to include, at a minimum, identification of the taxing municipality and tax block and lot number and street address of the distressed property with respect to which the foreclosure consultant will provide any distressed property service, the start date of the contract, the expiration date of the contract, typed names under all signatures, and a statement of who prepared the contract.

Proposed N.J.A.C. 3:18-5.5(c) requires foreclosure consultant contracts to be for a specified term specifically identified on the face of the contract with the initial contract term not exceeding 18 months. It further requires the contract to clearly state that, upon the expiration date set forth in the contract, the contract shall become void, unless the term is extended by mutual agreement of the parties. In addition, the contract shall also provide that the term of the foreclosure consultant contract may be extended by mutual agreement by the parties to a date certain not to exceed 180 days from the original expiration date or any prior extended date, with any such extension to be specified in a recordable document evidencing the extension that must be filed by the foreclosure consultant and recorded with the county clerk or register, as applicable, within 10 days of its being signed.

Proposed N.J.A.C. 3:18-5.5(d) states that in the event the contract is cancelled by the distressed property owner during its term, the foreclosure consultant shall file with the county clerk a notice of the cancellation of the previously recorded foreclosure consultant contract and attach to it a copy of the distressed property owner's notice of cancellation of that contract. The notice of cancellation filed by the foreclosure consultant shall be in recordable form as prescribed by N.J.S.A. 46:26A-1 et seq. and shall be filed within 10 days of the

foreclosure consultant's receipt of the distressed property owner's written notice of cancellation in accordance with N.J.S.A. 46:10B-57. The notice of cancellation shall include identification of the taxing municipality and tax block and lot number and street address of the distressed property with respect to which the foreclosure consultant will provide any distressed property service, the date of the cancellation of the contract, and typed names under all signatures. All signatures shall be acknowledged.

Proposed N.J.A.C. 3:18-5.5(e) states that in the event the foreclosure consultant contract is fully performed by the foreclosure consultant, and no distressed property conveyance or distressed property conditional conveyance has been contracted for by the distressed property owner, the foreclosure consultant shall, prior to collecting any compensation for the services provided to the owner under the terms of the foreclosure consultant contract, file with the county clerk a notice discharging the record of the previously recorded foreclosure consultant contract. Such notice of discharge shall be in a recordable form as prescribed by N.J.S.A. 46:26A-3, signed by both the foreclosure consultant and the distressed property owner, with the signatures acknowledged.

Proposed N.J.A.C. 3:18-5.5(f) states that in the event the foreclosure consultant's contract is fully performed and the distressed property owner has contracted to do a distressed property conveyance or distressed property conditional conveyance, the foreclosure consultant shall either file a notice of discharge prior to any closing on the distressed property conveyance or distressed property conditional conveyance, or deliver to the owner or his or her attorney or settlement agent a notice of discharge signed by the foreclosure consultant, with the signature properly acknowledged, at or prior to the closing on the distressed property conveyance or distressed property conditional conveyance transaction.

Proposed N.J.A.C. 3:18-5.5(g) states that in the event the foreclosure consultant contract is fully performed by both parties and the foreclosure consultant has not filed or delivered to the distressed property owner, his or her agent, or his or her attorney a notice of discharge, the owner who was a party to the contract may file a notice discharging the foreclosure contract of record. The owner-filed notice of discharge must be accompanied by a certification stating that the foreclosure consultant contract has been fully performed and, despite the distressed property owner's best efforts, the foreclosure consultant has failed to file a notice of discharge of the previously recorded foreclosure consultant contract.

Proposed N.J.A.C. 3:18-6.1 states that each business licensee shall file a report with the Department annually on or before May 1 of each year. The report shall be submitted on forms provided by the Department and shall indicate specified information relating to the licensee's foreclosure consulting activity, including the number of foreclosure consultant agreements entered into by the licensee, the number of accounts on which the licensee received compensation in accordance with the Act and N.J.A.C. 3:18, and the total amount of compensation so received during the reporting period. In accordance with N.J.A.C. 3:1-7.6, a business licensee shall be subject to a penalty for any late filed annual report.

Proposed N.J.A.C. 3:18-7.1(a) states that no person shall advertise as a foreclosure consultant, foreclosure consultant specialist, or similar designation in this State unless licensed as a foreclosure consultant. Proposed N.J.A.C. 3:18-7.1(b) states that one copy of each advertisement, including radio and television scripts, and any materials disseminated over the Internet or by any other electronic means, shall be maintained as a business record by the business licensee for at least three years after the last date on which any such advertisement was utilized, said date to be noted on each such advertisement record.

Proposed N.J.A.C. 3:18-8.1 sets forth acts which are prohibited for both business and individual licensees. Proposed N.J.A.C. 3:18-8.1(a)1 states that no business licensee or individual licensee shall claim, demand, charge, collect, or receive any compensation from a distressed property owner until after the foreclosure consultant has fully performed every distressed property service the foreclosure consultant contracted to perform and has secured the distressed property relief for the owner. Proposed N.J.A.C. 3:18-8.1(a)2 states that no business licensee or individual licensee shall claim, demand, charge, collect, or receive any fee, interest, or any other compensation from a distressed property owner, for any reason, in excess of two monthly mortgage payments of principal and interest, or the most recent quarterly property tax installment on the distressed property, whichever is less. Proposed N.J.A.C. 3:18-8.1(a)3 states that no business licensee or individual licensee shall take a wage assignment, a lien of any type on real or personal property, or other security to secure the payment of compensation. Any agreement to take such security is void and unenforceable. Proposed N.J.A.C. 3:18-8.1(a)4 states that no business licensee or individual licensee shall receive any consideration from any third party in connection with distressed property services rendered to a distressed property owner. Proposed N.J.A.C. 3:18-8.1(a)5 states that no business licensee or individual licensee shall acquire any interest, directly or indirectly, or by means of a subsidiary or affiliate, in a distressed property from an owner with whom the foreclosure consultant has contracted. Proposed N.J.A.C. 3:18-8.1(a)6 states that no business licensee or individual licensee shall accept any power of attorney from a distressed property for any purpose, except to inspect documents as provided by law. Proposed N.J.A.C. 3:18-8.1(a)7 states that no business licensee or individual licensee shall induce or attempt to induce a distressed property owner to enter a contract that does not comply in all respects with the

Act or this chapter. Proposed N.J.A.C. 3:18-8.1(a)8 states that no business licensee or individual licensee shall violate any of the provisions of the Act or this chapter. Lastly, as set forth in proposed N.J.A.C. 3:18-2.1(c)2, proposed N.J.A.C. 3:18-8.1(a)9 states that other than compensation payable to the business licensee, no individual licensee shall receive or solicit any compensation for foreclosure consulting directly from a distressed property owner.

Proposed N.J.A.C. 3:18-8.1(b) states that all business licensees shall ensure that all persons in their employ shall conduct business in compliance with the Act and this chapter.

Proposed N.J.A.C. 3:18-9 sets forth the rules on administrative actions as to applicants, licensees, or other persons. Proposed N.J.A.C. 3:18-9.1(a) states that the Commissioner may refuse to issue and may revoke, suspend or refuse to renew a license, or impose a penalty pursuant to the Act, if the Commissioner finds, after notice and an opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., that any person, applicant for or holder of a license has violated any of the provisions of the Act or any order, rule, or regulation made or issued pursuant to the Act; failed at any time to meet the requirements for licensure, or withheld information or made a material misstatement in an application for a license; been convicted of an offense involving breach of trust, moral turpitude or fraudulent or dishonest dealing, or had a final judgment entered against the person in a civil or administrative action upon grounds of fraud, misrepresentation, or deceit, or failure to maintain books, accounts, records, and other documents as required by proposed N.J.A.C. 3:18-5; become insolvent; demonstrated unworthiness, incompetence, bad faith, or dishonesty in the transaction of business as a licensee; or engaged in any other conduct which would be deemed by the Commissioner to be the cause for denial, revocation, suspension, or refusal of the license or license renewal.

Proposed N.J.A.C. 3:18-9.2(a) states that before an administrative penalty is imposed, the Department shall direct a notice by certified mail and regular mail, or by personal delivery or any other means consistent with N.J.A.C. 1:1-7.1 and recognized by the Courts of this State as valid service in administrative actions to the last known business residence or other address of the alleged violator. The notice shall include: a reference to the statute, rule, and/or administrative order alleged to have been violated; a concise statement of the facts on which the violation is based; a statement of the administrative penalties or other relief sought to be imposed; and a statement advising the alleged violator of their right to a hearing and the procedure for requesting a hearing.

Proposed N.J.A.C. 3:18-9.2(b) states that 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 this section and N.J.A.C. 1:1.

Proposed N.J.A.C. 3:18-9.2(c) states that the service set forth above and in proposed N.J.A.C. 3:18-9.2(a) and (b) shall be considered lawful service on the alleged violator.

Proposed N.J.A.C. 3:18-9.3(a) states that the alleged violator's failure to respond, as required by the notice, within the time provided in the notice, shall be deemed to be an admission of all of the factual and legal allegations, charges, and conclusions contained in the notice, and no further proceeding shall be required prior to the conversion of the notice into a final order that imposes the administrative penalties and any other relief specified in the notice in accordance with the terms set forth in the notice, or prior to the execution of a final order that imposes the administrative penalties and other relief described in the notice.

Proposed N.J.A.C. 3:18-9.3(b) states that if no response is received within the time provided in any notice to suspend or revoke a license to conduct foreclosure consulting activity and such notice did not provide for its conversion into a final order, in such event 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.

Proposed N.J.A.C. 3:18-9.4(a) states that in order for matters set forth in a notice to be deemed concluded by means of the consent of 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: that the business licensee return its license and/or the licenses of any person employed by them to the Department for cancellation; the payment of a monetary penalty; the restitution of moneys owed any person; and 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.

Proposed N.J.A.C. 3:18-9.5(a) states that 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 response and request for a hearing to: Chief of Investigations, Enforcement Bureau, New Jersey Department of Banking and Insurance, PO Box 040, Trenton, New Jersey 08625-0040.

Proposed N.J.A.C. 3:18-9.5(b) requires a response and request for a hearing to include: the name, address, and daytime telephone number of the alleged violator; a copy of the notice; a statement requesting a hearing; a specific admission, denial, or explanation of

each fact alleged in the notice, or a statement that the person is without knowledge thereof; and a concise statement of the facts or principles of law asserted to constitute any factual or legal defense.

Proposed N.J.A.C. 3:18-9.5(c) provides that the facts alleged in the notice shall be deemed to have been admitted if a response and hearing request fails to include a specific admission, denial, or explanation of each factual allegation or statement that the person is without knowledge.

Proposed N.J.A.C. 3:18-9.5(d) states that unless a contested case is dismissed, with or without prejudice, or otherwise resolved, the Department may transmit the contested case to the Office of Administrative Law for a hearing in accordance with the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

This rule proposal provides for a comment period of 60 days, and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed new rule and amendments will have a positive impact on homeowners in New Jersey who are in or near foreclosure, the banking and real estate industries, and the Department of Banking and Insurance as the regulator of those industries.

Homeowners in New Jersey who are in or near foreclosure on their homes are particularly vulnerable to unregulated individuals who prey upon such homeowners. In his message conditionally vetoing Assembly Bill 359 as initially passed by the Legislature, Governor Christie noted that the protections in the Act provide an “important step towards

safeguarding residents faced with painful choices and consequences that come from home foreclosures.”

The proposed new rule and amendments will also have a positive impact on persons in the banking and real estate brokerage businesses by establishing reasonable business standards for foreclosure consultants with whom they may have business dealings, and by preventing unscrupulous individuals from operating as unlicensed foreclosure consultants.

The proposed new rule and amendments will have a positive effect on the Department by establishing an orderly licensing program and clearly defined rules of foreclosure consultant conduct so as to enable the Department to efficiently examine and enforce licensee’s compliance.

The proposed new rule and amendments should also have a favorable impact on the overall real estate market by facilitating the orderly sales of properties facing foreclosure and alleviating the adverse effects of the current glut of such properties on the real estate market.

Economic Impact

The proposed new rules and amendments apply to all persons in the State who act as foreclosure consultants pursuant to the Act. The new rules and amendments will have an economic impact on licensees, the owners of distressed properties with whom they contract, and other parties involved in transactions involving such properties.

The new rules and amendments will have a positive economic impact on distressed property owners by allowing them to contract for foreclosure consulting services while protected by the Act’s disclosure and regulatory requirements, and providing to them the protections afforded by the bond maintained by the licensee. Distressed property owners will

also benefit from the disclosure statement that must precede any purchase or conditional conveyance of their distressed properties.

Persons or entities engaging in this business will be required to pay the application fees, file annual reports, maintain records, and meet the standards set forth in these rules. Initial costs will include an application fee, the costs of fingerprinting and criminal history checks, and, for business entities, the costs associated with procuring a bond and providing an audited financial statement. Such costs constitute normal costs of operating in financially sensitive businesses regulated by the Department and should be offset by licensee profits. Foreclosure consultant business licensees will also incur fees for the recording of foreclosure consultant contracts and recording the cancellations of record of previously recorded contracts in the counties in which the distressed properties are located. The rules do not require foreclosure consultants to retain additional professional services beyond those that would be employed in their normal course of business.

The new rules and amendments will also have a positive economic impact on purchasers of distressed properties, lenders, and real estate professionals because the services provided by licensed foreclosure consultants should enhance the efficiency of real estate transactions involving properties facing foreclosure.

Federal Standards Analysis

The Federal Consumer Financial Protection Bureau (“the CFPB”), recently created pursuant to Title X of the Dodd Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. §§ 5481 et seq., has issued regulations on financially related industries. Among the industries regulated by the CFPB are Mortgage Assistance Relief Service (MARS) Providers,

as defined in 12 CFR 1015.1 et seq., which include mortgage foreclosure consultants. The Federal rules cover a generally broader range of activity than the proposed rules which are designed to effectuate the purposes of the licensing and regulatory requirements of the Act.

The Federal rules for MARS providers set forth standards for communications and disclosures to property owners. Those standards include a prohibition on misrepresenting any material aspect of any mortgage assistance relief services, and require clear communications and disclosures to homeowners. The Federal rules also require the providing of a written agreement from the lender notifying the homeowner of the differences between the terms, conditions, and limitations of the owner's current mortgage and those of the recast or replacement loan if the owner accepts the loan holder's or servicer's offer. While there is some variation in the language of the various disclosures required by the Federal rules and the proposed rules, the intent of both rules is consumer protection. Moreover, the proposed content of the disclosures and contract notices referenced in proposed N.J.A.C. 3:18-5.4 is statutorily mandated and in furtherance of the licensing and regulatory requirements of the Act.

The proposed rules require mortgage foreclosure consultants involved in distressed property services to be licensed, bonded, and subject to audits as mandated by the Act. The Federal rules contain no such licensing, bonding, or audit requirements. The Federal rules provide recordkeeping standards which differ from the current proposal. The Federal rules require that MARS providers retain records for a period of 24 months after the record is created. Proposed N.J.A.C. 3:18-5.3(c) requires a minimum of three years retention. While the Act is silent on the length of recordkeeping, the statute requires the Department to conduct at least one examination every two years. The Department believes that the three-year

retention is necessary in order to conduct meaningful examinations of a licensee's foreclosure consulting activity. In addition, this requirement may be filled through the use of current technologies, as proposed N.J.A.C. 3:18-5.3(d) provides for electronic recordkeeping.

The Federal rules prohibit collection of the advance payment of any fee or other consideration by any MARS provider until the consumer has executed a written agreement between the consumer and the consumer's dwelling loan holder or servicer incorporating the offer of mortgage relief the MARS provider obtained from the loan holder or servicer. The proposed rules, which mirror the Act, provide that a foreclosure consultant may not collect payment until after the mortgage foreclosure consultant has fully performed every distressed property service for which the mortgage foreclosure consultant has contracted.

Jobs Impact

The Department anticipates that jobs may be generated as the result of the proposed new rule and amendments. As the Governor stated in December 2011 in his conditional veto of Assembly Bill 359, "[r]eal estate experts estimate that mortgage lenders are waiting to file an estimated 28,500 foreclosures and another 55,000 mortgage loans are currently more than 90 days delinquent." These large numbers appear to create business and job creation opportunities for licensed foreclosure consultants.

The Department invites the submission of any data or studies on the potential jobs impact of the proposed new rule and amendments.

Agriculture Industry Impact

The proposed new rule and amendments will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The Department believes that businesses applying for licensure as foreclosure consultants may be “small businesses,” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. As stated above, persons or entities engaging in this business will be required to pay the application fees, file annual reports, maintain records, and meet the standards set forth in these rules. Initial costs will include an application fee, the costs of fingerprinting and criminal history checks, and, for business entities, the costs associated with providing an audited financial statement and procuring a bond. Subsequent to the initial costs, a foreclosure consultant’s costs will include maintenance of the bond and an annual assessment as part of dedicated funding. Foreclosure consultant business licensees will also incur fees for recording foreclosure consultant contracts in the county in which the distressed property is located as well as fees to record notices of cancellation of record of previously recorded contracts.

The proposed new rules do impose reporting, recordkeeping, and other compliance requirements on all foreclosure consultant licensees regardless of the size of the business. The proposed new rules establish a regulatory framework for the licensing and periodic reporting and examination of foreclosure consultants to ensure licensees are able to fulfill their contractual obligations to distressed property owners. These obligations do not vary based on the size of the business. Accordingly, all foreclosure consultants must meet the

same licensure, reporting, performance standards, and bond requirements for the protection and benefit of those with whom they contract to provide foreclosure consulting services.

The Department does not believe that any additional professional services will be needed by foreclosure consultants to comply with the proposed new rules.

It is also possible that some of the surety companies affected by the proposed new rules may be small businesses. While the Department does not believe that the proposed new rules will impose any substantial additional compliance costs on surety companies, surety companies will be required to provide written notice of the intention to cancel a bond and written notice of claims against the bonds. The proposed new rules provide no differentiation in compliance requirements based on business size because the notifications are necessary to conform to the recent statutory amendments and to heighten consumer protections. These obligations do not vary based upon the size of the surety company. All businesses should be able to comply with the proposed new rules utilizing existing staff and resources. No outside professional services will be required.

Housing Affordability Impact Analysis

The proposed new rules and amendments may have an impact on housing affordability in this State. The services of foreclosure consultants will in many cases facilitate the purchase or conditional conveyance of distressed properties. The orderly processing of these sale transactions may affect the number of houses currently on the market, thereby affecting housing prices and affordability. The Department has no statistical information or data on such affects. Accordingly, the Department invites the submission of any data or studies on the potential housing affordability impact of the proposed new rules and amendments.

Smart Growth Development Impact Analysis

The proposed new rules and amendments concern the licensing and regulation of foreclosure consultants. As such, they should have little or no impact on smart growth and they are not likely to evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the proposed new rules and amendments concern the licensing and regulation of foreclosure consultants.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 1

GENERAL PROVISIONS

3:1-7.6 Penalty for late filing of annual reports and/or late payment of assessments

(a) Business licensees under the New Jersey Residential Mortgage Lending Act, N.J.S.A. 17:11C-51 et seq. (RMLA), licensees under the New Jersey Consumer Finance Licensing Act, N.J.S.A. 17:11C-1 to 43 (CFLA), motor vehicle installment sellers, home repair contractors, home financing agencies, check cashers, money transmitters, debt adjusters, foreign money transmitters, pawnbrokers, insurance premium finance companies, **foreclosure consultants**, or any other licensees who fail to file an annual report on a timely basis as specified below shall be subject to a penalty as specified in (c) below. With the exception of licensees under RMLA and CFLA, all licensees who file applications to renew their license after the license expiration date shall be subject to a penalty of \$50.00. Business

licensees under RMLA and licensees under CFLA who file renewal license applications after the expiration of their licenses shall be subject to N.J.A.C. 3:15-2.7 and 3:17-2.6, respectively, including any penalties specified therein. Individual licensees under RMLA who file renewal license applications after the expiration of their license shall be subject to N.J.A.C. 3:15-2.15.

1. – 4. (No change.)

(b) A business licensee under the RMLA, a licensee under the CFLA, motor vehicle installment seller, home repair contractor, home financing agency, check casher, money transmitter, debt adjuster, foreign money transmitter, pawnbroker, insurance premium finance company, **foreclosure consultants**, and any other licensee that submits payment of the assessment imposed upon them pursuant to N.J.S.A. 17:1C-33 et seq. and N.J.A.C. 3:5 after the due date indicated on their assessment statement shall be subject to a penalty.

1. – 2. (No change.)

(c) – (e) (No change.)

CHAPTER 5

DEDICATED FUNDING ASSESSMENT

3:5-1.1 Purpose and scope

(a) (No change.)

(b) These rules apply to banks, savings banks, savings and loan associations, credit unions, [persons licensed or registered under the New Jersey Licensed Lenders Act, P.L. 1996, c. 157, N.J.S.A. 17:11C-1 et seq.,] business licensees under the New Jersey Residential Mortgage Lending Act, N.J.S.A. 17:11C-51 et seq., licensees under the New Jersey Consumer

Finance Licensing Act, N.J.S.A. 17:11C-1 to 43, check cashers, money transmitters, consumer lenders, pawnbrokers, sales finance companies, insurance premium finance companies, home repair contractors, home repair finance agencies, motor vehicle installment sellers, debt adjusters, [and] high cost home loan counselors, **and foreclosure consultants.**

3:5-2.1 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

["Authority" means one of the activities permitted for a licensee pursuant to the New Jersey Licensed Lenders Act, N.J.S.A. 17:11C-1 et seq.: either mortgage banker, correspondent mortgage banker or mortgage broker; secondary lender; consumer lender; or sales finance company, the New Jersey Residential Mortgage Lending Act, N.J.S.A. 17:11C-51 et seq. or the New Jersey Consumer Finance Licensing Act, N.J.S.A. 17:11C-1 to 43.]

...

"Other financial entity" means a person who is [or was licensed or registered pursuant to the New Jersey Licensed Lenders Act, P.L. 1996, c. 157 (N.J.S.A. 17:11C-1 et seq.); or is] licensed[, or registered] pursuant to: the New Jersey Residential Mortgage Lending Act, N.J.S.A. 17:11C-51 et seq.; the New Jersey Consumer Finance Licensing Act, N.J.S.A. 17:11C-1 to 43; the Check Cashers Regulatory Act of 1993, P.L. 1993, c. 383 (N.J.S.A. 17:15A-30 et seq.); the New Jersey Money Transmitters Act, P.L. 1998, c. 14 (N.J.S.A. 17:15C-1 et seq.); the Insurance Premium Finance Company Act, P.L. 1968, c. 221 (N.J.S.A. 17:16D-1 et seq.); the Retail Installment Sales Act of 1960, P.L. 1960, c. 40 (N.J.S.A. 17:16C-1 et seq.); the Door-to-Door Retail Installment Sales Act of 1968, P.L. 1968, c. 223

(N.J.S.A. 17:16C-61.1 et seq.); the Home Repair Financing Act, P.L. 1960, c. 41 (N.J.S.A. 17:16C-93 et seq.); the Door-to-Door Home Repair Sales Act of 1968, P.L. 1968, c. 224 (N.J.S.A. 17:16C-95 et seq.); the Debt Adjusters Act, P.L. 1979, c. 16 (N.J.S.A. 17:16G-1 et seq.); the Pawnbroking Law, P.L. 1931, c. 294 (N.J.S.A. 45:22-1 et seq.) [or]; the New Jersey Home Ownership Security Act, P.L. 2003, c. 64, § 11 (N.J.S.A. 46:10B-32); **or the Foreclosure Rescue Fraud Prevention Act, P.L. 2011, c. 146 (N.J.S.A. 46:10B-53 et seq.).**

...

SUBCHAPTER 4. ASSESSMENT COMPUTATION FORMULA

3:5-4.4 Volume assessments

(a) - (b) (No change.)

(c) The volume assessment for licensees shall be calculated as follows:

1. Using filings of each licensee, the Department shall calculate the percentage, to nine decimal places, of the loan volume and/or its equivalent as calculated below for each licensee, in relation to total loan volume and/or its equivalent for all licensees as of December 31 of the prior calendar year.

i. – x. (No change.)

xi. For purposes of determining the volume assessment of foreclosure consultants, the Department shall consider the number of foreclosure consultant agreements entered into by the licensee in accordance with N.J.S.A. 46:10B-56 and N.J.A.C. 3:18 and the total compensation received for having provided distressed property services in accordance with N.J.S.A. 46:10B-56.b(1) and 58, for the preceding calendar year.

2. – 4. (No change.)

(d) – (e) (No change.)

CHAPTER 18

FORECLOSURE CONSULTANTS

SUBCHAPTER 1. GENERAL PROVISIONS

3:18-1 .1 Purpose and scope

(a) This chapter sets forth requirements applicable to the licensure and operations of foreclosure consultants pursuant to the provisions of N.J.S.A. 46:10B-53 et seq.

(b) This chapter applies to all persons who act as, offer to act as, or hold themselves out as being foreclosure consultants in this State.

3:18-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Act” means the Foreclosure Rescue Fraud Prevention Act, N.J.S.A. 46:10B-53 et seq.

“Business entity” means a corporation, association, joint venture, partnership, limited liability company, limited liability partnership, sole proprietorship, or any other legal entity, however organized, permitted under the laws of this State.

“Business licensee” means a business entity licensed as a foreclosure consultant.

“Conventional mortgage rate” means the highest mortgage rate published for the relevant loan product on the website of any generally accepted industry provider of such information, applicable to the week preceding the transaction.

“Distressed property” means residential real property consisting of from one to four dwelling units, at least one of which is occupied by the owner as a primary residence, and which is the subject of a mortgage foreclosure proceeding or whose owner is more than 90 days delinquent on any loan that is secured by the property.

“Distressed property conditional conveyance” means a transaction involving any participation by, or any distressed property service or other service or other assistance provided by, a foreclosure consultant, in which a distressed property owner transfers an interest in fee, or a beneficial interest created through a trust document, in the distressed property; the acquirer of the property allows the distressed property owner to occupy the property; and the acquirer of the property or a person acting in participation with the acquirer of the property conveys or promises to convey an interest in fee back to the owner or gives the owner an option to purchase the property at a later date.

“Distressed property conveyance” means a transaction involving any participation by, or any distressed property service or other service or other assistance provided by, a foreclosure consultant, in which a distressed property owner transfers an interest in fee in a distressed property.

“Distressed property owner” means the owner of record of the title to a distressed property.

“Distressed property owner’s current verified monthly income” means the monthly average of the owner’s most recent six months of wage receipts or pay stubs or, if the owner has non-wage income, by a verified statement of profit and loss or income from a certified public accountant who has reviewed the owner’s income.

“Distressed property purchaser” means a person who acquires an interest in a distressed property through a distressed property conditional conveyance or a distressed property conveyance, or a person who participates in a joint venture or joint enterprise involving a distressed property conditional conveyance or a distressed property conveyance. The term “distressed property purchaser” does not mean a Federally insured financial institution or a person who acquires distressed property through a deed in lieu of foreclosure or a person acting in participation with any person who acquires distressed property through a deed in lieu of foreclosure, provided that person does not promise to convey an interest in fee back to the distressed property owner or does not give the owner an option to purchase the property at a later date.

“Distressed property relief” or “relief” means, in connection with a foreclosure consultant, any of the following:

- 1. Saving the distressed property owner’s property from foreclosure;**
- 2. Postponing the foreclosure sale;**
- 3. Obtaining a forbearance from the mortgagee;**
- 4. Securing the right to exercise the right to reinstatement;**
- 5. Obtaining an extension of the period within which the distressed property owner may reinstate his or her mortgage obligation;**
- 6. Obtaining a waiver of an acceleration clause;**
- 7. Obtaining a modification of a mortgage;**
- 8. Assisting the distressed property owner in obtaining a loan or advance of funds; or**
- 9. Avoiding the impairment of the distressed property owner’s credit.**

“Distressed property service” or “service” means, without limitation, in connection with a distressed property conditional conveyance or a distressed property conveyance, any of the following:

- 1. Debt, budget, or financial counseling of any type;**
- 2. Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a mortgage or other lien on a distressed property;**
- 3. Contacting creditors on behalf of a distressed property owner;**

4. Arranging or attempting to arrange for an extension of the period within which the distressed property owner may cure the owner's default and reinstate a debt obligation;

5. Arranging or attempting to arrange for a delay or postponement of the time of sale of the distressed property;

6. Advising with respect to the filing of any document or assisting in any manner in the preparation of any document for filing with any court;

7. Giving advice, explanation, or instruction to a distressed property owner that in any manner relates to the cure of a default or forfeiture or to the postponement or avoidance of a sale of the distressed property; or

8. Recording the foreclosure consultant contract as required by N.J.S.A. 46:10B-56.g.

“Foreclosure consultant” means any person, located out-of-State or within the State, who, directly or indirectly, for compensation from a distressed property owner, makes any solicitation, representation, or offer to perform, or who performs, any distressed property service that the person represents will in any manner do any of the following in relation to the owner’s distressed property:

1. Prevent or postpone the foreclosure sale of the property;

2. Obtain any forbearance from any mortgagee;

3. Assist the distressed property owner in exercising any right of reinstatement or right of redemption;

4. Obtain any extension of the period within which the distressed property owner may reinstate the distressed property owner's rights with respect to the property;

5. Obtain any waiver of an acceleration clause contained in any promissory note, contract, or mortgage evidencing or securing a debt in relation to the property;

6. Assist the distressed property owner in obtaining a loan or advance of funds other than to pay off the promissory note, contract, or mortgage evidencing or securing a debt in relation to the property, except that, for the purposes of this paragraph 6, a foreclosure consultant shall not assist a distressed property owner by:

i. Providing any service that would require licensure under the Residential Mortgage Lending Act, N.J.S.A. 17:11C-51 et seq., without first obtaining such license;

ii. Providing any service that would require licensure under the Consumer Finance Licensing Act, N.J.S.A. 17:11C-1 et seq., without first obtaining such license; or

iii. Providing any such service that would require licensure, registration, or other credential under any other law or regulations of this State, another State or the United States, without first obtaining the requisite authorization; or

7. Avoid or ameliorate the impairment of the distressed property owner's credit resulting from default on the promissory note, contract, or mortgage, or the conduct of a foreclosure sale or offer to repair the distressed property owner's credit.

“Foreclosure consultant agreement” or “foreclosure consultant contract” means the written document memorializing the terms of the contractual agreement between a foreclosure consultant and a distressed property owner.

“Individual” means a natural person.

“Individual licensee” means a natural person licensed as a foreclosure consultant employed by a business licensee.

“Licensee” means a business licensee or an individual who is licensed under the Act.

“Reasonable ability to pay” means that the distressed property owner’s current verified monthly income is adequate to service a 30-year fixed rate loan at the conventional mortgage rate together with actual property taxes, homeowner’s insurance, condominium or association fees, if applicable, and reasonable and necessary living expenses.

“Reasonable and necessary living expenses” means not less than the average utility costs over the last 12 months, or if that figure is unavailable, \$200.00, and transportation, food, clothing, and other expenses equal to an amount not less than the Collection Financial Standards set forth by the Internal Revenue Service for transportation, food, clothing, and other items and out-of-pocket health care costs.

“Residual income” means a distressed property owner’s net income available to meet living expenses after the payment of all ordinary and necessary debt, including payments under an option to purchase back the distressed property owner’s property transferred in a distressed property conditional conveyance.

3:18-1.3 Location

(a) An application for a license as a business licensee shall specify the address of the principal location from which the business licensee shall conduct foreclosure consulting activity and at which it may be contacted by the Department as referenced in N.J.A.C. 3:18-2.2(a) and (b).

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

SUBCHAPTER 2. LICENSE REQUIREMENTS

3:18-2.1 License required

(a) No person shall act as, offer to act as, or hold himself or herself out to be, a foreclosure consultant or use the designation foreclosure consultant, foreclosure consultant specialist, or similar designation in this State unless licensed by the Commissioner as set forth in the Act.

(b) “Foreclosure consultant” shall not include any of the following:

- 1. A housing counseling agency certified by the United States Department of Housing and Urban Development to provide counseling;**

2. A person who holds or is owed an obligation secured by a lien on any distressed property in situations in which the person performs services in connection with the obligation or lien, provided the obligation or lien did not arise as the result of, or as part of, a proposed distressed property conditional conveyance or a distressed property conveyance;

3. A licensed attorney who negotiates the terms of a distressed property conveyance on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney receives, directly or indirectly, any compensation, benefit, or gain for the attorney's services from a foreclosure consultant business licensee or any individual or entity who should be licensed as a foreclosure consultant;

4. An entity which is licensed pursuant to P.L. 1979, c. 16 (N.J.S.A. 17:16G-1 et seq.) or an successor statute;

5. A municipality which has a tax lien on distressed property;

6. An assignee or a purchaser of a municipal tax lien from a tax sale;

7. A sponsor which is certified by the Commissioner of Community Affairs to participate in the New Jersey Housing Assistance and Recovery Program established pursuant to sections 8 through 14 of P.L. 2008, c. 127 (N.J.S.A. 55:14K-88 et seq.);

8. A bank, savings bank, savings and loan association, credit union, or other Federally insured financial institution, or insurance company, or affiliate or subsidiary thereof, organized, chartered, licensed, or holding a certificate of

authority to do business under the laws of this State or any other state or under the laws of the United States;

9. A person licensed as a real estate broker, broker-salesperson, or salesperson pursuant to N.J.S.A. 45:15-1 et seq., while acting under the authority of that license;

10. A person licensed as a title insurance producer pursuant to the New Jersey Insurance Producer Licensing Act of 2001, P.L. 2001, c. 210 (N.J.S.A. 17:22A-26 et seq.) while acting under the authority of that license or conducting the business of title insurance pursuant to P.L. 1975, c. 106 (N.J.S.A. 17:46B-1 et seq.);

11. A mediator duly authorized pursuant to and acting under the authority of the Judiciary's Foreclosure Mediation Program; or

12. A person licensed pursuant to the New Jersey Residential Mortgage Lending Act, P.L. 2009, c. 53 (N.J.S.A. 17:11C-51 et seq.), while acting under the authority of that license.

(c) An individual licensee shall only engage in foreclosure consultant activity while employed by a business licensee. An individual licensee shall not be employed by more than one business licensee at any given time.

1. An individual licensee shall only receive compensation for the performance of foreclosure consulting activity from the business licensee by which he or she is employed.

2. Other than compensation payable to the business licensee, an individual licensee shall not receive or solicit any compensation for foreclosure consulting directly from or on the behalf of, a distressed property owner.

(d) A business licensee shall be responsible for all of the foreclosure consulting activity of all individual licensees employed by it.

3:18-2.2 Application for a license

(a) A business entity, including a sole proprietorship, applying for a license pursuant to the Act shall submit the following:

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

i. The legal name of the applicant, any trade or alternate name in which the applicant intends to operate, the official e-mail address of the applicant, and the business address of the principal office from which the applicant will conduct foreclosure consulting activity and at which the applicant may be contacted by the Department;

ii. The identification of any additional locations at which the applicant will engage in the business of foreclosure consulting on an ongoing basis. All such locations shall conform to all applicable local laws and ordinances and shall be conducive to the maintenance of the confidentiality of the personal identification and financial information of all consumers to whom the applicant provides any distressed property

services, in accordance with all applicable Federal and State laws and rules;

iii. If different from the principal business location referenced in (a)1i above, the primary contact location of the applicant, including its mailing and e-mail addresses;

iv. A designation of the location at which the records of the applicant shall be maintained;

v. If the applicant is a business entity other than a sole proprietorship, information identifying all partners, all members and managers of a limited liability company, corporate officers, directors, and stockholders owning 10 percent or more of the shares of a corporation, and a personal certification from all such individuals.

vi. The name and address of the applicant's registered agent in this State; and

vii. The applicant's Federal Tax Identification Number or Social Security Number, as applicable;

2. Evidence of submission to a criminal history record background check by all owners, principals, officers, directors, partners, members, and managers of a limited liability company, shareholders owning 10 percent or more of the applicant, and by all employees requiring individual licensure as foreclosure consultants, which shall include:

i. An FBI criminal history record background check; and

ii. A New Jersey Division of State Police criminal history record background check, including fingerprinting in the manner currently required by the New Jersey State Police or their authorized representative;

3. Disclosure of the revocation, denial, or suspension of, and any restraint upon, any business or professional license, registration, certificate, or other credential authorizing the person to engage in business issued to or sought by the applicant, or any officer, director, partner, member, owner, or stockholder holding 10 percent or more of the company of the applicant, or any parent, subsidiary, or affiliate of the applicant, by this State, another state, the Federal government, or by any agency or instrumentality thereof;

4. The submission to the Department of an original executed bond, on a bond form provided by the Department on its website, from a surety company authorized to do business in this State, which bond meets the requirements of N.J.A.C. 3:18-3;

5. An unqualified audited financial statement prepared by a certified public accountant or a public accountant, in good standing;

6. An application for a business license by a corporation organized under the laws of this State shall be accompanied by a copy of the applicant's Certificate of Incorporation as filed with the New Jersey Department of Treasury, Division of Revenue. A foreign corporation shall submit a copy of its Certificate of Incorporation from the state in which it is incorporated, and a copy of its Certificate of Authority to do business in this State approved by the New

Jersey Department of Treasury, Division of Revenue. If an alternate name is to be utilized, a copy of the registration of that name with the New Jersey Department of Treasury, Division of Revenue shall be provided;

7. An application for a business license from a sole proprietorship or partnership where a trade name is to be used shall be accompanied by a trade name certificate filed with the county clerk's office in the county in which the licensee is to be located, and any filing made with the New Jersey Department of Treasury, Division of Revenue;

8. An application for a business license from a limited liability company shall be accompanied by a copy of the applicant's Certificate of Formation as filed with the New Jersey Department of Treasury, Division of Revenue and a copy of its operating agreement. A foreign limited liability company shall submit a copy of its formation document from the state where it was established, a copy of its Certificate of Authority to do business in this State approved by the New Jersey Department of the Treasury, Division of Revenue, and a copy of its operating agreement. If an alternate name is to be utilized, a copy of the registration of that name with the New Jersey Department of Treasury, Division of Revenue shall be provided;

9. The non-refundable application fee as specified in N.J.A.C. 3:18-23.1(b);

10. A certification that the personal identification and financial information of all clients of the business shall be maintained in accordance with

all Federal and State laws and rules applicable to personal identification and financial information privacy; and

11. A certification that the principal office is in compliance with all applicable local laws and ordinances.

(b) If the applicant is a natural person who will be employed by a business entity as a foreclosure consultant, such an applicant shall submit the following: a complete application, a non-refundable application fee as specified in N.J.A.C. 3:23-2.1(b), evidence of submission to criminal history record background checks through fingerprinting in the manner currently required by the New Jersey State Police or their authorized representative, a personal certification, and the application fee.

(c) The applicant shall bear all costs, including those associated with completion of the criminal history record background checks through the New Jersey Division of State Police and the FBI, and all fees and charges imposed by the Department, including non-refundable application fees.

3:18-2.3 Terms of licenses

Beginning July 1, 2013, the term for foreclosure consultant licenses shall be two years. The term shall begin on July 1 of each odd numbered year and end on June 30 of the next odd numbered year as set forth in N.J.A.C. 3:23-2.2(b). All renewed licenses and all licenses initially issued or reinstated during a license term shall expire on June 30 of the year in which that license term will terminate.

3:18-2.4 Application for renewal of a license

(a) In order to apply to renew a license, a person who holds in good standing a license as a foreclosure consultant shall submit a completed renewal application which shall include the following:

1. The name of the applicant;
2. The location of the principal place of business of the applicant;
3. Confirmation that the applicant has bond coverage as specified in N.J.A.C. 3:18-3; and
4. A certification that all information submitted on the original application for licensure, and any information subsequently changed by the applicant in accordance with N.J.A.C. 3:18-2.8 is currently in effect.

(b) No license shall be renewed unless all assessments made upon the licensee in accordance with N.J.A.C. 3:5 that were due and owing as of the expiration date of the current license have been paid.

(c) No license shall be renewed if it is established that grounds for the non-renewal of the license as set forth in N.J.S.A. 46:10B-55.b exist.

3:18-2.5 Late renewal of licenses; late renewal fees; reinstatement fees; no authority after expiration

(a) Initial license terms shall run from the date of issue until June 30 of the following odd numbered year (“renewal year”).

(b) A person who submits a renewal application for a business or individual license after the expiration of the license, but no later than the last day of July following

license expiration, may be renewed upon payment of a late renewal fee of \$50.00 per license.

(c) An individual or a business licensee who wishes to apply for reinstatement after the last day of July of the year in which their unexpired license expired shall be required to file a reinstatement application. Expired business licensees shall submit a reinstatement application fee of \$250.00 and expired individual licensees shall submit a reinstatement application fee of \$50.00. Reinstatement applications will be accepted for a period of six months following the expiration of the last license held, after which the person shall be treated as a new license applicant and required to submit a complete new application and application fee.

(d) The submission of an application for late renewal or for reinstatement of a license does not authorize an individual licensee or a business licensee and any individual licensees employed by it to engage in any activity subject to licensure prior to the issuance of a properly renewed or reinstated license. A formerly licensed person who engages in activity as a foreclosure consultant without a renewed or reinstated license shall be subject to fines and other penalties as set forth in N.J.A.C. 3:18-9.1.

(e) The license of an individual licensee shall not be renewed or reinstated, notwithstanding the timely application of the individual licensee for renewal, until the business licensee by which he or she is employed is renewed or reinstated.

(f) Late renewal and reinstatement application fees are nonrefundable.

3:18-2.6 Discontinuation of foreclosure consulting activity

(a) When a foreclosure consultant business licensee discontinues foreclosure consultant activity in New Jersey, the business licensee shall surrender the entity's current license as well as the license of each individual licensee employed by the business licensee. The business licensee shall also provide written notice of the discontinuation of the business license to each individual licensee employed by the business licensee and to each consumer who is a party to an existing foreclosure consultant agreement with the business licensee. The written notice to such consumers shall identify any entity that has agreed to complete the providing of foreclosure consultant services to such consumers under the terms of the business licensee's pending foreclosure consultant contract and set forth the consumer's option to continue with the new designated entity or to terminate the agreement. The business licensee shall furnish proof to the Department of having made the notifications and also provide written notification to the Department of the following:

- 1. Any foreclosure consultant agreements being processed as of the date of the notice and provide the total number of any such agreements together with consumer names and addresses and the property address for each agreement;**
- 2. The location of the files of pending foreclosure consultant agreements;**
- 3. The location of records required to be maintained under New Jersey law and regulations;**
- 4. Any arrangements that have been made to have other entities complete the providing of foreclosure consulting services on any such agreements, together**

with complete information on the name, address, telephone number, and contact person of entities involved in such arrangements;

5. Copies of any filed and unfiled discharges of recorded foreclosure consultant contracts that have been fully performed with an indication of whether the discharge has been received by the distressed property owner; and

6. The name and telephone number of person(s) within the licensee's operation designated to handle consumer inquiries and problems that may arise.

(b) A business licensee discontinuing foreclosure consultant activity shall also:

1. Satisfy all filing requirements including the final annual report for the portion of the calendar year in which the foreclosure consultant discontinues its licensed business operations in New Jersey;

2. Pay all assessments due and owing and prepay the base assessment for the year of the discontinuance by paying the amount of the most recently billed base assessment within 15 days after ceasing business or upon being acquired. In the event that the said amounts are not paid, the Department shall proceed against the bond. Adjustments to the base assessment, if any, and the final volume assessment for the year of discontinuance will be billed in the year following the discontinuance. In the event of an acquisition, the amount carried forward shall be paid by the acquiring entity; and

3. Identify, in writing, the name, address, and phone number of the person within the licensee's operation responsible for the payment of assessments and satisfying all outstanding obligations owed to the Department.

(c) An individual licensee whose relationship with a business licensee has been terminated, either by the individual licensee or the business licensee, shall not engage in foreclosure consulting activity until their application for licensure with another business licensee has been approved by the Department.

(d) When an individual licensee discontinues foreclosure consultant activity in New Jersey, the licensee shall notify the business licensee by which he or she is employed of the discontinuation in writing and shall forward to the Department proof of such written notification along with a certification attesting to their discontinuance of foreclosure consultant activity in New Jersey.

(e) To be licensed as a foreclosure consultant after termination of a relationship with an employing business licensee, an individual licensee shall complete an application that shall include the name of the new business licensee by whom they will be employed, a certification stating that their employment with their former business licensee has been terminated, and a certification from the new business licensee stating that it will employ the individual as a foreclosure consultant upon approval of the application.

3:18-2.7 Notifications to the Department

(a) Within 20 days after a change of any information required by N.J.S.A. 46:10B-55 and this subchapter to be supplied with an initial license application, a foreclosure consultant shall notify the Department in writing of any fact or circumstance affecting its qualifications for licensure including, but not limited to, a change in name, new or revised standard contracts, additions or deletions to the list of locations at which

the licensee conducts ongoing business, and a change in its ownership or control as the result of a sale, transfer, or change of control of at least 10 percent of the business.

(b) For any individual who, as a result of the sale, transfer, or change of control owns at least 10 percent of the foreclosure consultant business and for each new officer, director and partner, a business licensee shall submit evidence of submission to a criminal history record background check as set forth in N.J.S.A. 46:10B-55 and N.J.A.C. 3:18-2.2(a)2. The background check shall include a State criminal history record background check based upon an exchange of fingerprint data with the State Bureau of Identification in the Division of State Police and a check of criminal information as requested from and distributed to the Federal Bureau of Investigation and any other governmental agency as follows:

1. Fingerprints, for submission to the FBI and any other governmental agency authorized to receive this information for a state, Federal, and international criminal history record background check, to determine an applicant's fitness for licensure under N.J.S.A. 46:10B-55.b(2).

(c) The notification of change and the evidence of submission of request for criminal history record background check shall be provided to the Department at:

**New Jersey Department of Banking and Insurance
Licensing Services
PO Box 473
Trenton, NJ 08625-0473**

(d) A business licensee shall notify the Department in writing within 15 days of the occurrence of any of the following:

1. The arrest, indictment, or conviction of the business licensee, or of any officer, director, partner, member, owner, or stockholder holding 10 percent or more of the company of the business licensee in this State, in another state, or in any Federal jurisdiction for any offense, crime, or misdemeanor, except for a motor vehicle violation;

2. The revocation, denial, suspension, or restraint of a business or professional license, registration, certificate, or other right to engage in business issued to the licensee, or to any officer, director, partner, member, owner, or stockholder holding 10 percent or more of the company of the licensee, or to any affiliate thereof, by this State, by another state, by the Federal government, or by any agency or instrumentality thereof;

3. The filing of a petition for bankruptcy or reorganization by the licensee, or by any officer, director, partner, member, owner, or stockholder holding 10 percent or more of the company of the licensee, or by any affiliate thereof;

4. The fining, penalizing, or disciplining of the licensee, or any affiliates, by this State, by another state, by the Federal government, or by any agency or instrumentality thereof; and

5. The entry of any final judgment in a civil or administrative action against the licensee upon the grounds of fraud, misrepresentation, deceit, or breach of contract.

(e) An individual licensee shall notify the Department in writing within 15 days of the occurrence of any of the following:

1. The arrest, indictment, or conviction of the licensee in this State, in another state, or in any Federal jurisdiction for any offense, crime or misdemeanor, except for a motor vehicle violation;

2. The revocation, denial, suspension, or restraint of a business or professional license, registration, certificate, or other right to engage in business issued to the licensee by this State, by another state, by the Federal government, or by any agency or instrumentality thereof;

3. The fining, penalizing, or disciplining of the licensee by this State, by another state, by the Federal government, or by any agency or instrumentality thereof; and

4. The entry of any final judgment in a civil or administrative action against the licensee upon the grounds of fraud, misrepresentation, deceit, or breach of contract.

SUBCHAPTER 3. BONDING

3:18-3.1 Bond requirements

(a) Business licensees shall provide a blanket bond covering the business licensee and all individual foreclosure licensees employed by the business licensee and all other persons employed by the business licensee.

(b) A business entity that seeks an initial license as a foreclosure consultant shall obtain a surety bond in the amount of \$75,000.

(c) The Department may require at any time an increase in the amount of a bond to an amount not to exceed \$250,000 if, after evaluating the level of foreclosure

consulting activity of the business licensee in this State, including the number of individual licensees employed by the business licensee, the results of examinations, any violations of the Act, any claims paid on the bond, the volume of foreclosure consulting agreements entered into by the business licensee, and the amount of compensation received by the business licensee for having rendered distressed property services, the Department determines that the amount of the bond is insufficient to protect the beneficiaries of the bond.

(d) Use of the bond form posted on the Department's website at www.state.nj.us/dobi in the amount specified in (b) above or an amount adjusted as set forth in (c) above and issued by a surety company authorized to write such bonds in New Jersey shall, subject to all other applicable requirements, be considered sufficient for approval.

3:18-3.2 Beneficiaries of bond coverage

The bond shall run to the State of New Jersey, pro rata, for the benefit of New Jersey consumers injured by the wrongful act, omission, default, fraud, or misrepresentation of the foreclosure consultant in the course of activity authorized by the license, and for the benefit of the Department for unpaid penalties, unpaid assessments, and any other unpaid obligations of the foreclosure consultant to the Department, including, but not limited to, returned items submitted to the Department in payment of penalties, charges, assessments, or fees.

3:18-3.3 Coverage of the bond; compensable claims

(a) The surety company shall pay consumers' claims based on the damages directly incurred as a result of the wrongful act, default, fraud, or misrepresentation of the business licensee or any employee of such licensee.

(b) Attorney's fees, pre- or post-judgment interest, court costs, and similar charges are not recoverable through the bond, unless such charges are included in a final judgment against the licensee and the surety company was given prior notice of the court action and an opportunity to respond.

(c) The bond shall not be payable for claims made by business creditors.

(d) The bond shall not be payable for treble damage claims pursuant to the Consumer Fraud Act or any other State or Federal law.

3:18-3.4 Original bond or rider required; changes in surety companies or bonds

A business licensee shall submit to the Department the original executed surety bond or the original rider to the original executed surety bond. If the business licensee changes its surety company or the bond is otherwise amended, the business licensee shall immediately provide the Department with the amended original executed surety bond or the amended original rider to the original executed surety bond.

3:18-3.5 Notice to Department required before cancelling bond coverage

A surety company shall not cancel a bond for any cause unless written notice of its intention to cancel is filed with the Department at least 30 days before the day upon which cancellation shall take effect. Cancellation without such notice shall not be effective.

3:18-3.6 Surety companies to notify department of claims; claims payable only at the direction of the Department

When a person submits a claim to a surety company against the bond of a business licensee, the surety company shall immediately notify the Department and shall not pay any claim unless and until directed to do so by the Department.

3:18-3.7 Publication of notices of bond claims by the Department

When the Department receives notice from a surety company of a claim against a business licensee that appears valid, a consumer is unable to obtain payment of a court judgment that was obtained against the licensee, or the Department, in its sole discretion, otherwise determines it is necessary and proper to do so, the Department shall cause a notice to be published once a week for three successive weeks in a newspaper having general circulation in the area where the business licensee conducts or conducted business in this State and on the Department's website advising consumers of their right to file claims against the bond. The Department is not required to publish notice when it has a claim against the bond for an assessment or any other fee, charge, or penalty if there are no consumer claims or complaints that appear valid and that may require payment from the bond. If the Department determines a notice is necessary, the notice shall be in the following form:

NOTICE TO CONSUMERS

TO ANY CONSUMER HAVING CLAIMS AGAINST

(Name of Licensee), (Type of licensed activity, i.e., foreclosure consultant)

TAKE NOTICE that in order to provide a procedure for the orderly resolution of claims against the bond obtained by (Name of Business Licensee) for the benefit of any consumer injured by the wrongful act, default, fraud or misrepresentation of (Name of Licensee) in the providing of foreclosure consultant services, you are hereby required to present your claims against (Name of Licensee) at the following address:

N.J. Department of Banking and Insurance

Division of Banking

Office of Consumer Finance

20 West State Street, PO Box 040

Trenton, NJ 08625-0040

Each claim shall be presented in writing, specifying the amount claimed and the particulars of the claim, and shall be duly verified under oath or affirmation.

TAKE FURTHER NOTICE that each person having claims against (Name of Licensee) should file a claim no later than (one month after last notice) or risk losing the opportunity to file a claim.

Commissioner of Banking and Insurance

3:18-3.8 Priority of claims against bonds

The Department shall review all timely consumer claims made against the bond of a business licensee and decide which claims are valid. The Department shall submit all timely valid claims to the surety company to share pro rata in the proceeds of the bond. The Department shall then submit to the surety company for the payment claims it has against the licensee for other unpaid penalties, charges, assessments, or fees. Consumers submitting claims after the filing date set forth in the published notice but before the expiration of the applicable statute of limitations period shall recover next against the bond in the order that the claims are submitted.

SUBCHAPTER 4. DISTRESSED PROPERTY PURCHASER DISCLOSURES

3:18-4.1 Distressed property purchaser required disclosures

(a) Prior to the completion of a distressed property conveyance, a licensee shall notify a distressed property owner in writing that, pursuant to N.J.S.A 46:10B-64.d, a distressed property purchaser is required to provide to that owner a disclosure statement setting forth in at least 14-point type all costs and fees that the owner will incur in connection with the conveyance.

1. The licensee shall maintain, as a business record, proof of having provided the written notification referenced in (a) above to the distressed property owner.
2. A distressed property purchaser shall provide a disclosure statement in the form available on the Department's website at www.state.nj.us/dobi.

(b) Prior to the completion of a distressed property conditional conveyance, a licensee shall notify a distressed property owner in writing that, pursuant to N.J.S.A.

46:10B-63.a, a distressed property purchaser is required to provide to the owner a disclosure statement in at least 14-point type setting forth all costs that the owner will incur in connection with the conditional conveyance and in connection with any option for the distressed property owner to repurchase the property, including a schedule of monthly and annual payments, closing costs, and any additional costs and fees related to the distressed property conditional conveyance.

1. The licensee shall maintain, as a business record, proof of having provided the written notification referenced in (b) above to the distressed property owner.

2. A purchaser in a distressed property conditional conveyance shall provide the required conveyance in the form available on the Department's website at www.state.nj.us/dobi.

SUBCHAPTER 5. BOOKS AND RECORDS; CONTRACT REQUIREMENTS

3:18-5.1 Methods of accounting for business licensees

(a) Each business licensee shall maintain books and records in accordance with recognized accounting principles.

(b) Each business licensee shall retain copies of foreclosure consultant contracts in compliance with N.J.A.C. 3:18-5.3.

3:18-5.2 Reproduction of documents

A business licensee may reproduce documents and records relating to the operation of its business for the purpose of complying with this subchapter and may substitute the copy for the original.

3:18-5.3 Location of books, records, accounts, and other documents pertaining to a business; records retention

(a) Each business licensee shall notify the Department of the location where the books, records, accounts, foreclosure consultant agreements, filed and unfiled notices discharging of record, previously recorded foreclosure consultant agreements, and other business documents relating to its activity as a foreclosure consultant are stored and maintained as confidential in accordance with applicable Federal and State law and rules. If the licensee proposes to relocate such business records, the licensee shall notify the Department prior to the move.

(b) All of the books, accounts, and records referenced in (a) above which pertain to the business activity conducted by a licensee under the Act shall be maintained in a manner that preserves the confidentiality of the financial and identity information provided to the licensee by consumers, shall be kept separate and apart from the books, accounts, and records of all other types of business conducted by the licensee, and be maintained in such a manner as to enable a prompt and efficient examination of the licensed activities.

(c) Business licensees shall preserve all books, records, accounts, agreements, and documents related to the business for a minimum of three years after entry into a foreclosure consultant agreement on which no compensation was received by the

licensee. After having rendered distressed property services in accordance with the Act and this chapter, and having received compensation, the business licensee shall preserve the materials referenced above for three years from the licensee's receipt of the compensation.

(d) All books, records, accounts, agreements, and other documents may be stored electronically so long as the electronically stored information can be produced in electronic format upon request by the Department or reproduced on paper and delivered to the Department within five days of the business licensee's receipt of a request from the Department to produce the records.

3:18-5.4 Foreclosure consultant contract

(a) A foreclosure consultant contract shall be written in plain language and shall fully disclose:

- 1. Each and every distressed property service to be performed;**
- 2. All the foreclosure consultant's representations;**
- 3. The distressed property relief to be secured;**
- 4. The term of the contract, which shall not exceed 18 months from the date on which the contract is fully executed;**
- 5. The name and address of the foreclosure consultant to which the notice of cancellation in (b) below should be mailed; and**
- 6. The date the owner signed the contract.**

(b) The following notice, printed in at least 14-point boldface type, if the contract is printed, or in capital letters, if the contract is typed, and completed with the name of the foreclosure consultant business licensee and individual licensee who procured the contract, shall be printed immediately above the statement required by (c) below:

NOTICE REQUIRED BY NEW JERSEY LAW

..... **(Individual Name) or anyone working for him or her or for**
.....**(Firm Name) CANNOT:**

(1) Take any money from you or ask you for money until

..... **(Name, Individual and Firm) has completely finished doing**
everything he, she or it said would be done; and

(2) Ask you to sign or have you sign any lien, mortgage, or deed unless all
provisions of the “Foreclosure Rescue Fraud Prevention Act,” P.L.2011, c.146
(N.J.S.A. 46:10B-53 et al.), and any other applicable federal and State laws have
been complied with; and

(3) Guarantee that they will be able to refinance a loan on your home or
arrange for you to keep your home.

(c) A foreclosure consultant contract shall be written in the same language as principally used by the foreclosure consultant to describe the consultant's services to be performed and the distressed property relief to be secured for the distressed property owner, shall be dated and signed by the owner, and shall contain in immediate proximity to the space reserved for the owner's signature a conspicuous statement in 14-point boldface type, if the contract is printed, or in capital letters, if the contract is typed, as follows:

“You, the owner, may cancel this transaction at any time until after the foreclosure consultant has fully performed every service the foreclosure consultant contracted to perform and has secured the distressed property relief for the owner. See the attached notice of cancellation form for an explanation of this right.”

(d) A foreclosure consultant contract shall contain on the first page, in type size no smaller than that generally used in the body of the document, each of the following:

1. The name and address of the foreclosure consultant business licensee to which the notice of cancellation is to be mailed; and

2. The date the distressed property owner signed the contract.

(e) A foreclosure consultant contract shall be accompanied by a completed form, captioned “NOTICE OF CANCELLATION,” which shall be attached to the contract and easily detachable, and shall contain, in at least 14-point boldface type, if the contract is printed, or in capital letters, if the contract is typed, the following statement written in the same language as used in the contract:

NOTICE OF CANCELLATION

.....
(Enter date of transaction)

You may cancel this transaction, without any penalty or obligation, at any time until after the foreclosure consultant has fully performed every service and has secured the relief for the owner.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice to:

..... **(Name of foreclosure consultant business licensee) at**

..... **(Address of foreclosure consultant's place of business)**

I hereby cancel this transaction on (Date)

..... **(Owner's signature).**

(f) The individual foreclosure consultant licensee shall provide the distressed property owner with a copy of a foreclosure consultant contract and the attached notice of cancellation in duplicate immediately upon execution of the contract.

3:18-5.5 Recording of foreclosure consultant contracts

(a) The foreclosure consultant business licensee shall record all foreclosure consultant contracts in accordance with N.J.S.A. 46:26A-1 et seq. and with the clerk of the county in which the distressed property is located, within 10 business days of its execution.

1. For purposes of this section, the term “county clerk” shall also refer to the Register of Deeds and Mortgages in counties in which instruments affecting real property are recorded with such officials.

(b) Foreclosure consultant contracts shall be in recordable form with the signatures of all parties acknowledged in accordance with N.J.S.A. 46:26A-1 et seq. In addition to all the information required by N.J.A.C. 3:18-5.4, all such contracts shall include, at a minimum, information specifying the taxing municipality and tax block and lot number and the street address of the distressed property with respect to which the foreclosure consultant will provide any distressed property service, the start date of the contract, the expiration date of the contract, and a statement identifying who has prepared the contract. The names of all signatories shall be typed under all signatures.

(c) Foreclosure consultant contracts shall be for a specified term prominently identified on the face of the contract. The initial contract term shall be for a period not to exceed 18 months. The contract shall clearly state that, upon the expiration date set forth in the contract, the contract shall become void unless the term is extended by mutual agreement of the parties. The contract shall also provide that the term of the contract may be extended by mutual agreement of the parties to a date certain not to

exceed 180 days from the original expiration date or any prior extended date. All such extensions shall be memorialized in a recordable document evidencing the extension which shall be filed by the foreclosure consultant for recording with the county clerk within 10 days of its being signed by the distressed property owner.

(d) In the event the contract is cancelled by the distressed property owner during its term, the foreclosure consultant shall file with the county clerk a notice of the cancellation of the previously recorded foreclosure consultant contract and attach to it a copy of the distressed property owner's notice of cancellation of the contract. The notice of cancellation shall be in recordable form with all signatures acknowledged in accordance with N.J.S.A. 46:26A-1 et seq. and shall be filed with the county clerk within 10 days of the foreclosure consultant's receipt of the distressed property owner's written notice of cancellation in accordance with N.J.S.A. 46:10B-57. The notice of cancellation shall include information specifying the taxing municipality and tax block and lot number and the street address of the distressed property with respect to which the foreclosure consultant contracted to provide any distressed property service, and the date of the cancellation of the contract. The names of all signatories shall be typed under all signatures.

(e) In the event the foreclosure consultant contract is fully performed by the foreclosure consultant, and no distressed property conveyance or distressed property conditional conveyance has been contracted for by the distressed property owner, the foreclosure consultant shall, within 10 days of collecting any compensation for the services provided to the distressed property owner under the terms of the foreclosure consultant contract, file with the county clerk a notice discharging of record the

previously recorded foreclosure consultant contract. Such notice of discharge shall be signed by both the foreclosure consultant and the distressed property owner and shall be in recordable form with all signatures acknowledged as prescribed by N.J.S.A. 46:26A-3.

(f) In the event the foreclosure consultant contract is fully performed and the distressed property owner has contracted to sell the property through a distressed property conveyance or a distressed property conditional conveyance, the foreclosure consultant shall either file a notice discharging of record the foreclosure consultant contract recorded with the county clerk prior to any closing on the distressed property conveyance or distressed property conditional conveyance, or deliver to the distressed property owner or his or her attorney or settlement agent such a notice of discharge signed by the foreclosure consultant, with the signature properly acknowledged, at or prior to the closing on the distressed property conveyance or distressed property conditional conveyance transaction.

(g) In the event a foreclosure consultant contract is fully performed by both parties and the foreclosure consultant has not filed or delivered to the distressed property owner, his or her agent, or his or er attorney a notice of discharge as set forth in (f) above, the owner may file a notice discharging the foreclosure consultant contract of record. The owner-filed notice of discharge shall be accompanied by a certification stating that the foreclosure consultant contract has been fully performed and, despite the distressed property owner's best efforts, the foreclosure consultant has failed to file a notice of discharge of the previously recorded foreclosure consultant contract.

SUBCHAPTER 6. REPORTS TO THE DEPARTMENT

3:18-6.1 Reports to the Department

Each business licensee shall file a report with the Department annually on or before May 1 of each year. The report shall be submitted on forms provided by the Department and shall indicate specified information relating to the licensee's foreclosure consulting activity, including the number of foreclosure consultant agreements entered into by the licensee, the number of accounts on which the licensee received compensation in accordance with the Act and this chapter, and the total amount of compensation so received during the reporting period. In accordance with N.J.A.C. 3:1-7.6, a business licensee shall be subject to a penalty for any late filed annual report.

SUBCHAPTER 7. ADVERTISING

3:18-7.1 Advertising

(a) No person shall advertise as a foreclosure consultant, foreclosure consultant specialist, or similar designation in this State unless licensed as a foreclosure consultant.

(b) One copy of each advertisement, including radio and television scripts, and any materials disseminated over the Internet or by any other electronic means, shall be maintained as a business record by the business licensee for at least three years after the last date on which any such advertisement was utilized, said date to be noted on each such advertisement record.

SUBCHAPTER 8. PROHIBITED ACTS

3:18-8.1 Prohibited acts

(a) No business licensee or individual licensee shall:

1. Claim, demand, charge, collect, or receive any compensation from a distressed property owner until after the foreclosure consultant has fully performed every distressed property service the foreclosure consultant contracted to perform and has secured the distressed property relief for the owner;

2. Claim, demand, charge, collect, or receive any fee, interest, or any other compensation from a distressed property owner, for any reason, in excess of two monthly mortgage payments of principal and interest, or the most recent quarterly property tax installment on the distressed property, whichever is less;

3. Take a wage assignment, a lien of any type on real or personal property, or other security to secure the payment of compensation. Any agreement to take such security is void and unenforceable;

4. Receive any consideration from any third party in connection with distressed property services rendered to a distressed property owner;

5. Acquire any interest, directly or indirectly, or by means of a subsidiary or affiliate in a distressed property from a distressed property owner with whom the foreclosure consultant has contracted;

6. Accept any power of attorney from a distressed property owner for any purpose, except to inspect documents as provided by law;

7. Induce or attempt to induce a distressed property owner to enter a contract that does not comply in all respects with the Act or this chapter;

8. Violate any of the provisions of the Act or this chapter; and

9. Other than compensation payable to the business licensee, no individual licensee shall receive or solicit any compensation for foreclosure consulting directly from, or on behalf of, a distressed property owner.

(b) All business licensees shall ensure that all persons in their employ conduct business in compliance with the Act and this chapter.

**SUBCHAPTER 9. ADMINISTRATIVE ACTIONS AS TO APPLICANTS,
LICENSEES, OR OTHER PERSONS**

3:18-9.1 Administrative penalties

(a) The Commissioner may refuse to issue and may revoke, suspend, or refuse to renew a license, or impose a penalty pursuant to the Act, if the Commissioner finds, after notice and an opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., that any person, applicant for or holder of the license, including, but not limited to, any of the persons listed in N.J.A.C. 3:18-2.2(a)2, has:

- 1. Violated any of the provisions of the Act or any order, rule, or regulation made or issued pursuant to the Act;**
- 2. Failed at any time to meet the requirements for licensure, or withheld information or made a material misstatement in an application for a license;**
- 3. Been convicted of an offense involving breach of trust, moral turpitude, or fraudulent or dishonest dealing, or had a final judgment entered against the person in a civil or administrative action upon grounds of fraud,**

misrepresentation, or deceit, or failure to maintain books, accounts, records, and other documents as required by N.J.A.C. 3:18-5;

4. Become insolvent;

5. Demonstrated unworthiness, incompetence, bad faith, or dishonesty in the transaction of business as a licensee; or

6. Engaged in any other conduct which would be deemed by the Commissioner to be the cause for denial, revocation, suspension, or refusal of the license or license renewal.

3:18-9.2 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, or by any other means consistent with N.J.A.C. 1:1-7.1 and recognized by the Courts of this State as valid service in administrative actions, to the last known business or residence or other address of the alleged violator. The notice shall include:

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

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

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

4. A statement advising the alleged violator of their 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 this section and N.J.A.C. 1:1.

(c) Service as set forth in (a) and (b) above shall be considered lawful service on the alleged violator.

3:18-9.3 Failure to respond to notice

(a) The alleged violator's failure to respond, as required by the notice, within the time provided in the notice, shall be deemed to be an admission of all of the factual and legal allegations, charges, and conclusions contained in the notice, and no further proceeding shall be required prior to the conversion of the notice into a final order that imposes the administrative penalties and any other relief specified in the notice in accordance with the terms set forth in the notice, or prior to the execution of a final order that imposes the administrative penalties and other relief described in the notice.

(b) If no response is received within the time provided in any notice seeking to suspend or revoke a license to conduct foreclosure consulting activity and such notice did not provide for its conversion into a final order, in such event 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.

3:18-9.4 Consent to an administrative penalty

(a) In order for matters set forth in a notice to be deemed concluded by means of the consent of 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 business licensee returns its license and/or the licenses of any person employed by it to the Department for cancellation;**
- 2. The payment of a monetary penalty;**
- 3. The restitution of moneys owed any person; and**
- 4. 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.**

3:18-9.5 Response and 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 response and request for a hearing to: Chief of Investigations, Enforcement Bureau, New Jersey Department of Banking and Insurance, PO Box 040, Trenton, New Jersey 08625-0040.

(b) A response and 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 factual allegation, or a statement that the person is without knowledge thereof, the facts alleged in the notice shall be deemed to have been admitted.

(d) Unless a matter is dismissed, with or without prejudice, or otherwise resolved, the Department shall transmit the matter to the Office of Administrative Law as a contested case for a hearing in accordance with the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

CHAPTER 23

FEES, LICENSE TERMS AND ANNUAL REPORTS FOR LICENSEES

3:23-2.1 Application fees

(a) (No change.)

(b) The following table indicates the application fees established by the Commissioner of Banking and Insurance for application fees other than those specified in N.J.A.C. 3:15-4.1 and 3:17-4.2.

<u>Licensees</u>	<u>Application Fee</u>
1. – 7. (No change.)	
8. Foreclosure Consultants (N.J.S.A. 46:10B-55) (Business including Sole Proprietorship)	\$500.00

9. Foreclosure Consultants (N.J.S.A. 46:10B-55) (Natural Persons)

\$100.00

(c) (No change.)