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BANKING

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF BANKING

Mortgages

Proposed Readoption: N.J.A.C. 3:10

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

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, 17:9A-64.1, 17:12B-48(21), and 46:10B-49.

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

Proposal Number: PRN 2014-002.

Submit comments by March 7, 2014, to:

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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1.c, the rules at N.J.A.C. 3:10, concerning mortgages will expire on May 20, 2014.

N.J.A.C. 3:10-1 through 4 and 6 through 7 are reserved. N.J.A.C 3:10-5.1 limits to $5.00 the amount a lender or other servicing entity may charge for substitution by the mortgagor in mid-term of an insurance policy or policies covering the mortgaged property. The Department proposes to readopt this rule without change.

N.J.A.C. 3:10-8.1 provides that a bank or savings bank may originate or acquire mortgage loans up to 100 percent of appraised value under certain circumstances and conditions, and delineates those conditions. The general rule limits mortgage loans to 90 percent of appraised value.

N.J.A.C. 3:10-9 imposes on lenders and mortgage loan servicers the obligation to report residential mortgage foreclosure proceedings to the Department. The rule implements N.J.S.A. 46:10B-49.

The Department of Banking and Insurance has reviewed the rules proposed for readoption and determined them to be necessary, reasonable, and proper for the purpose for which they were promulgated, as required by Executive Order No. 66 (1978). Therefore, in accordance with N.J.S.A. 52:14B-5.1, the rules are proposed for readoption.

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 rules proposed for readoption affect lenders of mortgage loans and the consumers who borrow that money. They also provide for the reporting of foreclosure actions by mortgage lenders and servicers.

N.J.A.C. 3:10-5.1, limiting the charge for the mid-term substitution of an insurance policy, will continue to protect consumers and afford them greater freedom of choice of their homeowners insurer.

N.J.A.C. 3:10-8 permits banks and savings banks to grant mortgages with the relaxed appraisal ratio under certain circumstances as noted in the Summary above, which will have a beneficial social impact by making such mortgage loans available to the borrowers on such loans, thereby enhancing their ability to finance the purchase of a home.

The readoption of the rules at N.J.A.C. 3:10-9, regarding the reporting of foreclosure actions, will keep the Department informed about trends and developments in the mortgage market and foster efforts by the State to devise strategies to mitigate foreclosures, which will have a beneficial social impact.

Economic Impact

N.J.A.C. 3:10-5.1 will continue to limit to $5.00 the amount a lender or a servicer of mortgages may charge for substitution in mid-term of an insurance policy on the property encumbered by the mortgage. This limit has a very minor negative economic impact on lenders and servicers, but a positive economic impact on borrowers who may wish to substitute the insurance on their mortgaged property mid-term, and avoid paying excessive fees.

The readoption of N.J.A.C. 3:10-8.1, which provides for the relaxed appraisal ratio for certain mortgage loans, should have a positive effect on lenders and consumers by enabling lenders to make more such mortgages available.

The readoption of N.J.A.C. 3:10-9 will have a minimal economic impact on lenders and mortgage servicers as they will continue to incur costs related to the compiling and reporting of data on the commencement of foreclosure actions as required by N.J.S.A. 46:10B-49. The Department notes these costs are not burdensome, as systems and processes have been implemented by most lenders to comply with the reporting requirement since N.J.A.C. 3:10-9 was adopted in 2009.

Federal Standards Statement

The rules proposed for readoption do not contain standards or requirements that exceed standards or requirements imposed by Federal law. These rules apply to New Jersey banks and savings banks, certain Federal standards, such as those set forth at 12 U.S.C. § 2901. In addition, the reporting requirements in Subchapter 9 incorporate by reference the loan limits set and periodically modified by the Federal Housing Administration, the Federal National Mortgage Association (Fannie Mae), and the Federal Home Loan Mortgage Corporation (Freddie Mac). Lastly, the definitions section of Subchapter 9 incorporates terms from the Federal Department of Housing and Urban Development (HUD) glossary.

Jobs Impact

The Department does not anticipate that the rules proposed for readoption will result in the generation or loss of jobs. The Department invites commenters to submit any data or studies concerning the jobs impact of the rules proposed for readoption together with their written comments on other aspects of this proposal.

Agriculture Industry Impact

The Department does not expect any agriculture industry impact as a result of the rules proposed for readoption.

Regulatory Flexibility Analysis

The maximum charge of $5.00 established in N.J.A.C. 3:10-5.1 is a reasonable charge appropriate for covering the administrative costs of noting the substitution of insurance mid-term. Since the administrative cost should not vary from small to large institutions, no differentiation is made based on business size.

N.J.A.C. 3:10-8.1 on the relaxed appraisal ratio on loans does not place any reporting, recordkeeping, or compliance requirements on mortgage lenders, some of which are small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. In addition, it is not believed that compliance with these rules will require professional assistance.

The rules proposed for readoption at N.J.A.C. 3:10-9 impose reporting, recordkeeping, and other compliance requirements on “small business.” The Regulatory Flexibility Act, N.J.S.A. 52:14B-1 et seq., defines a “small business” as any business resident in this State that employs fewer than 100 full-time employees, is independently owned and operated, and is not dominant in its field. Some of the entities affected by the proposed readoption may be small businesses. The Department believes that the reporting, recordkeeping, and compliance requirements in the rules proposed for readoption are necessary in order to comply with the statutorily mandated quarterly reporting requirement in N.J.S.A. 46:10B-49. Compliance costs are discussed in the Economic Impact above. Professional services may be needed in order to comply with the requirements, but the Department believes that in most cases lenders will rely on existing staff to meet the requirements. In order to comply with the statute and enable the

Department to produce a report as required by N.J.S.A. 46:10B-49b that is as accurate and complete as possible, no differing requirements based on business size are made.

Housing Affordability Impact Analysis

The proposed readoption of N.J.A.C. 3:10-8.1 may have a positive impact on housing affordability in this State in that the readoption of the rule will allow individual banks and savings banks to continue to make mortgage loans under the program set forth at N.J.A.C. 3:10-8.1. This program allows banks and savings banks wider discretion in making mortgage loans when the consumer is a first time home buyer, is of low or moderate income, or the property is part of an affordable housing project. The Department is not able to predict with any certainty what the extent of the possible positive impact may be, as many other factors affect housing affordability. The balance of the rules proposed for readoption will not have an impact on housing affordability in that the rules relate to banking matters, setting a limit on a minor fee, and reports to the Department.

Smart Growth Development Impact Analysis

The rules proposed for readoption will not have an impact on smart growth in this State and there is an extreme unlikelihood that the rules would 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 in that the rules proposed for readoption relate to banking matters, the granting of mortgages, setting a limit on a minor fee, and reports to the Department.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:10.