



**State of New Jersey**  
DEPARTMENT OF BANKING AND INSURANCE  
DIVISION OF BANKING  
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*Governor*

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BULLETIN NO. 03-19

TO: Mortgage Lenders  
FROM: H. Robert Tillman, Director, Division of Banking  
RE: Lock-In Agreements

The Department of Banking and Insurance (“Department”) has received several complaints from consumers concerning delays in mortgage processing. Some of these delays have led to the expiration of lock-in agreements.

The Department strongly encourages lenders to, in good faith, make every effort to process loan applications prior to the expiration of any lock-in agreement, as required by N.J.A.C. 3:1-16.4(b). If any lender is experiencing difficulty closing loans before lock-in expiration dates (through no substantial fault of the borrower), the Department suggests that the lender either extend the duration of the lock-in agreement or consider not accepting more applications until it assesses whether it can handle the volume adequately. When a lender fails to honor lock-in agreements, it may be subject to sanctions for violations of the rule referenced above, particularly if, at the time of entering into the lock-in agreement, it had a reasonable basis for concluding that it was unlikely to complete the application process before the lock-in period expires. The lender also would risk its reputation as a legitimate lender.

The Department also notes that N.J.A.C. 3:1-16.6 provides that if the borrower elects to extend the lock-in agreement, and subsequently closes the loan above the lock-in rate, the new rate cannot be “higher than that which would provide a current market yield, but no gross profit or ‘spread’ to the lender.” The lender shall also refund the lock-in fee. While the Department recognizes that many mortgage lenders do not reap profits from delays, lenders should be aware that any Department investigation will closely

scrutinize these issues, and failure to comply with the applicable rules will expose the licensee to the imposition of penalties, including, where appropriate, being required to make restitution to borrowers.

8/15/03  
Date

/s/ H. Robert Tillman  
H. Robert Tillman  
Director  
Division of Banking

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