

BANKING
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF BANKING

Licensed Lenders: Mortgage Bankers; Correspondent Mortgage Bankers; Mortgage Brokers;
Secondary Lenders; Consumer Lenders and Sales Finance Companies

Proposed Readoption with Amendments: N.J.A.C. 3:15

Authorized By: Steven M. Goldman, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8, 8.1 and 15e; 17:1C-33 et seq.; and 17:11C-49.

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

Proposal Number: PRN 2007-321.

Submit comments by December 14, 2007 to:

Robert J. Melillo, Chief
Legislative and Regulatory Affairs
New Jersey Department of Banking and Insurance
20 West State Street
P.O. Box 325
Trenton, NJ 08625-0325
Fax: (609) 292-0896
E-mail: legsregs@dobi.state.nj.us

The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes to readopt N.J.A.C. 3:15, which is scheduled to expire on April 17, 2008, pursuant to N.J.S.A. 52:14B-5.1c. The chapter provides for the licensing and regulation of persons in the business of mortgage bankers, correspondent mortgage bankers, mortgage brokers, secondary mortgage lenders, consumer lenders and sales finance companies. Some of the areas covered by the chapter are licensing requirements, bonding requirements, tangible net worth required of licensees, registration of mortgage solicitors and books and records required to be kept by licensees.

Subchapter 1 sets forth general provisions. This includes the purpose and scope of the chapter, definitions and requirements as to offices and display of licenses. The Department proposes to delete one and add two new definitions to N.J.A.C. 3:15-1.2 regarding licensing and registration periods. These amendments are proposed to ensure that the rules are clear as to the length of time that licenses and registrations are valid.

Subchapter 2 governs licensing. The Department proposes to amend N.J.A.C. 3:15-2.2 to add a new subsection (e) and also to amend N.J.A.C. 3:15-2.3(e) and 2.13(c). The proposed amendments will make it clear that when a license or registration is issued during a licensing or registration period as defined in the proposed amended rule, it does not run for two full years but only until the end of the current licensing or registration period. The Department also proposes to amend N.J.A.C. 3:15-2.13 regarding registration of mortgage solicitors. The proposed amendment will clarify the requirement that when a mortgage solicitor seeks to be re-registered with a different licensee during a registration period, an additional registration fee must be paid. This proposed amendment will conform the rule text to the current Department practice.

Subchapter 3 specifies bonding requirements for licensees.

Subchapter 4 sets forth application fees.

Subchapter 5 governs tangible net worth, net worth, liquid assets and solvency.

Subchapter 6 governs books and records, examinations and annual reports.

Subchapter 7 regulates insurance issues. The Department proposes to amend N.J.A.C. 3:15-7.2(c) to provide the phone number and website of the third-party provider referenced in the subsection.

Subchapter 8 governs advertising.

Subchapter 9 governs permissible fees to be charged by mortgage bankers, correspondent mortgage bankers and mortgage brokers.

Subchapter 10 sets forth characteristics of loans.

Subchapter 11 governs other permissible lines of business for consumer lenders.

Subchapter 12 sets forth the rules regarding imposition of administrative penalties.

The Department has reviewed the rules and has determined that they are necessary, reasonable and proper for the purpose for which they were originally promulgated.

The Department has recently proposed amendments to the branch office rules at N.J.A.C. 3:15-2.3. The notice of proposal appeared in the New Jersey Register on August 20, 2007 at 39 N.J.R. 3437(a). The Department is also considering changes to the mortgage solicitor and mortgage processing rules. Amendments may be proposed in the near future through a separate notice of proposal with the appropriate notice and comment period.

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 with amendments apply to all licensed lenders. This includes mortgage bankers, correspondent mortgage bankers, mortgage brokers, secondary lenders, consumer lenders and sales finance companies. The rules proposed for readoption with amendments will continue to implement the licensing and compliance requirements of the Department regarding these types of lenders. Moreover, the rules proposed for readoption with amendments will continue to enable the Department to carry out its mission of requiring licensed

lenders to engage in their business in a manner that protects consumers. Therefore, the rules proposed for readoption with amendments will continue to have a beneficial social impact on consumers, licensed lenders and the general public.

Economic Impact

The rules proposed for readoption with amendments will affect mortgage bankers, correspondent mortgage bankers, mortgage brokers, secondary lenders, consumer lenders and sales finance companies. Persons or entities engaging in these businesses will be required to pay the application fees, file annual reports, maintain records and meet any net worth or bonding requirements, as set forth in these rules.

Licensed lenders will incur costs to comply with the rules proposed for readoption with amendments. Some licensed lenders may choose to use the services of outside professionals, such as accountants or attorneys, for assistance with compliance. The costs for this will vary based on the professional chosen and the amount of work requested.

The proposed amendments to clarify license and registration terms will have no economic impact as no renewal fees will be charged. The proposed amendment to clarify that payment of a new registration fee is required when a mortgage solicitor changes employers will have no economic impact, as it reflects current Department practice and is in accordance with N.J.S.A. 17:11C-8(c).

Federal Standards Statement

The rules proposed for readoption with amendments do not contain any standards or requirements that exceed standards or requirements imposed by Federal law. The rules proposed

for readoption with amendments continue to apply certain Federal standards to New Jersey licensed lenders. The Federal standards involved are: The Real Estate Settlement and Procedures Act, 12 U.S.C. §§2601 et seq., and the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub.L. 96-221.

Jobs Impact

The Department does not anticipate that any jobs will be generated or lost as a result of the rules proposed for readoption with amendments. Licensed lenders will use existing staff or retain outside professionals for continued compliance with existing rules. Compliance with the proposed amendments will not require additional staff.

The Department invites commenters to submit any data or studies concerning jobs impact of the proposed readoption with amendments together with written comments on other aspects of this proposal.

Agriculture Industry Impact

The Department does not expect any agriculture industry impact from the rules proposed for readoption with amendments.

Regulatory Flexibility Analysis

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 employees full-time, is independently owned and operated and is not dominant in its field. Many of the licensees affected by the rules proposed for readoption with amendments are small businesses.

The rules proposed for re-adoption with amendments will continue to impose recordkeeping, reporting and other compliance requirements on these entities, as discussed in the Summary above. Costs are discussed in the Economic Impact above. Some licensed lenders may choose to use the services of outside professionals, such as accountants or attorneys, for assistance with compliance. The costs for this will vary based on the professional chosen and the amount of work requested.

The rules proposed for re-adoption with amendments will continue to require mortgage bankers, correspondent mortgage bankers, mortgage brokers, secondary lenders, consumer lenders and sales finance companies to operate in a manner that is responsible to the industry, their customers and the general public. They will also continue to require that mortgage solicitors be registered with the Department. The Department does not believe that these requirements are unduly burdensome. They are consistent with prudent regulatory practices. The purpose of these requirements does not vary based upon business size. Accordingly, no differentiation based on business size is provided.

Smart Growth Impact

The rules proposed for re-adoption with amendments will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for re-adoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:15.

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

3:15-1.2 Definitions

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

. . . .

[“Biennial period” means the two-year period beginning on July 1 of an odd-numbered year.]

. . . .

“License or licensing period” means the two-year period beginning on July 1 of each odd numbered year and ending on June 30 of the next odd numbered year.

. . . .

“Registration period” means the two-year period beginning on July 1 of each odd numbered year and ending on June 30 of the next odd numbered year.

. . . .

3:15-2.2 Application for a license

(a) - (d) (No change.)

(e) A license shall run from the date of issuance to the end of the current licensing period.

3:15-2.3 Branch offices; branch licensing requirement; initial branch licensing applications

(a) - (d) (No change.)

(e) If an applicant for a branch license meets the requirements of this section and N.J.S.A. 17:11C-9, the Commissioner shall issue the branch license within 30 days of the receipt of the application. **Licenses shall run from the date of issuance to the end of the current licensing period.**

(f) - (g) (No change.)

3:15-2.13 Registration of mortgage solicitors

(a) (No change.)

(b) To register a mortgage solicitor, the prospective employing mortgage banker, correspondent mortgage banker or mortgage broker shall submit the following to the Department:

1. (No change.)

2. A \$100.00 registration fee. A mortgage solicitor who changes his or her employing mortgage banker, correspondent mortgage banker or mortgage broker within the [two-year] registration period shall be re-registered by the new employing licensee by filing a new registration form with [the] **an additional** \$100.00 fee.

3. (No change.)

(c) The Department shall provide all employing licensees with a mortgage solicitor registration certificate for each solicitor that shall be renewable every two years. The registration shall run from July 1, 2007 to June 30, 2009 and, **upon renewal**, for two-year intervals thereafter

in accordance with the registration period. Registrations shall run from the date of issuance to the end of the registration period in which the registration was issued.

(d) - (g) (No change.)

3:15-7.2 Insurance provisions applicable to secondary lenders and consumer lenders

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

(c) All refunds and credits made by secondary lenders and consumer lenders pursuant to this section shall be computed by the “Sum of Digits Method” commonly known as the “Rule of 78ths.” There are rules for computing refunds of unearned finance charges on early payment of a loan so that the refund is proportional to the monthly unpaid balance. Tables for calculating refunds and credits according to this methodology can be obtained from Financial Publishing Company, 82 Brookline Drive, Brookline, MA 02212, **(617) 262-4040**, **www.financial-publishing.com**. When the refund or credit of the unearned insurance premium is less than \$1.00, no refund is required.

(d) - (f) (No change.)