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LAW/RWH

P.L.2015, CHAPTER 14, *approved February 5, 2015*
Assembly, No. 1784 (*First Reprint*)

1 AN ACT concerning licensing requirements for certain residential
2 mortgage lending and amending P.L.2009, c.53.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 4 of P.L.2009, c.53 (C.17:11C-54) is amended to read
8 as follows:

9 4. Except as provided under section 5 of this act, beginning no
10 later than July 31, 2010, or a later date approved by the Secretary of
11 the United States Department of Housing and Urban Development
12 pursuant to the provisions of section 1508 of the federal "Secure
13 and Fair Enforcement for Mortgage Licensing Act of 2008,"
14 Pub.L.110-289 (12 U.S.C. s.5107), the licensing requirements under
15 this act shall be as follows:

16 a. For residential mortgage lenders and residential mortgage
17 brokers, as business licensees:

18 (1) No person shall act as a residential mortgage lender or
19 broker without first obtaining a license under this act, except that a
20 person licensed as a residential mortgage lender may act as a
21 broker, if proper disclosure is made. The department shall issue
22 licenses which specify whether a business licensee is licensed as a
23 residential mortgage lender or broker.

24 (2) No person shall be issued or hold a license as a residential
25 mortgage lender or residential mortgage broker unless one officer,
26 director, partner, owner or principal is a qualified individual
27 licensee of that same type sought or held. The commissioner may,
28 by regulation, require a licensed residential mortgage lender or
29 broker to employ additional qualified individual licensees to
30 properly supervise the business licensee in its branch offices. If a
31 qualified individual licensee allows his license to lapse or for some
32 other reason is no longer affiliated with the business licensee, the
33 business licensee shall notify the commissioner within 10 days, and
34 shall appoint another qualified individual licensee within 90 days or
35 a longer period as permitted by the commissioner.

36 (3) No person licensed as a mortgage banker, correspondent
37 mortgage banker, mortgage broker, or secondary lender under the
38 provisions of the "New Jersey Licensed Lenders Act," sections 1
39 through 49 of P.L.1996, c.157 (C.17:11C-1 et seq.), prior to the
40 effective date of its reform and re-titling as the "New Jersey
41 Consumer Finance Licensing Act" pursuant to P.L.2009, c.53

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted June 23, 2014.

1 (C.17:11C-51 et al.), shall continue to engage in any activities for
2 which a license was previously issued, and henceforth act as a
3 residential mortgage lender or residential mortgage broker without
4 first obtaining a license under this act.

5 b. For residential mortgage lenders and residential mortgage
6 brokers, as qualified individual licensees:

7 (1) No individual shall act as a qualified individual licensee for
8 a residential mortgage lender or residential mortgage broker without
9 first obtaining a license under this act. A qualified individual
10 licensee licensed as a residential mortgage lender or broker may act
11 as a mortgage loan originator.

12 (2) No individual licensee for a mortgage banker, correspondent
13 mortgage banker, mortgage broker, or secondary lender under the
14 provisions of the "New Jersey Licensed Lenders Act," sections 1
15 through 49 of P.L.1996, c.157 (C.17:11C-1 et seq.), prior to the
16 effective date of its reform and re-titling as the "New Jersey
17 Consumer Finance Licensing Act" pursuant to P.L.2009, c.53
18 (C.17:11C-51 et al.), shall continue to engage in any activities for
19 which a license was previously issued, and henceforth act as a
20 qualified individual licensee without first obtaining a license under
21 this act.

22 c. For mortgage loan originators:

23 (1) (a) No individual shall act as a mortgage loan originator
24 without first obtaining a license under this act.

25 (b) No individual, except as provided in paragraph (2) of this
26 subsection, shall be issued or hold a license as a mortgage loan
27 originator unless employed as an originator by one, and not more
28 than one, business licensee, and is subject to the direct supervision
29 and control of that licensee.

30 (2) No loan processor or underwriter who is an independent
31 contractor shall act as a loan processor or underwriter without first
32 obtaining a mortgage loan originator license under this act.

33 (3) No individual registered as a mortgage solicitor under the
34 provisions of the "New Jersey Licensed Lenders Act," sections 1
35 through 49 of P.L.1996, c.157 (C.17:11C-1 et seq.), prior to the
36 effective date of its reform and re-titling as the "New Jersey
37 Consumer Finance Licensing Act" pursuant to P.L.2009, c.53
38 (C.17:11C-51 et al.), shall continue to engage in any activities for
39 which a registration was previously issued, and henceforth act as a
40 mortgage loan originator without first obtaining a license under this
41 act.

42 ¹[d. No person shall be considered to be acting as a residential
43 mortgage lender, a residential mortgage broker, a mortgage loan
44 originator or a qualified individual licensee for a residential
45 mortgage lender or residential mortgage broker when engaging in
46 the following activities:

47 (1) sharing of general information about financial sources;

1 (2) discussing hypothetical financing options not related to a
2 specific financing source;

3 (3) giving the homebuyer a list of available financing sources
4 without recommending any of the sources;

5 (4) discussing a buyer's ability to afford a home;

6 (5) presenting or discussing generic facts or generic rate sheets;
7 and

8 (6) closing personal property transactions.】¹

9 (cf: P.L.2009, c.53, s.4)

10
11 2. Section 5 of P.L.2009, c.53 (C.17:11C-55) is amended to
12 read as follows:

13 5. The requirements of this act shall not apply to:

14 a. Depository institutions; but subsidiaries and service
15 corporations of these institutions shall not be exempt.

16 b. A registered mortgage loan originator that is registered
17 under the federal "Secure and Fair Enforcement for Mortgage
18 Licensing Act of 2008," title V of Pub.L.110-289 (12 U.S.C. s.5101
19 et seq.).

20 c. A licensed attorney who negotiates the terms of a residential
21 mortgage loan on behalf of a client as an ancillary matter to the
22 attorney's representation of the client, unless the attorney is
23 compensated by a residential mortgage lender, residential mortgage
24 broker, or mortgage loan originator.

25 d. A person licensed as a real estate broker or salesperson
26 pursuant to R.S.45:15-1 et seq., and not engaged in the business of a
27 residential mortgage lender or residential mortgage broker. Any
28 person holding a license under this act as a residential mortgage
29 lender or broker shall be exempt from the licensing and other
30 requirements of R.S.45:15-1 et seq. in the performance of those
31 functions authorized by this act.

32 e. Any employer, other than a residential mortgage lender, who
33 provides residential mortgage loans to his employees as a benefit of
34 employment which are at an interest rate which is not in excess of
35 the usury rate in existence at the time the loan is made, as
36 established in accordance with the law of this State, and on which
37 the borrower has not agreed to pay, directly or indirectly, any
38 charge, cost, expense or any fee whatsoever, other than that interest.

39 f. The State of New Jersey or a municipality, or any agency or
40 instrumentality thereof, which, in accordance with a housing
41 element that has received substantive certification from the Council
42 on Affordable Housing pursuant to the "Fair Housing Act,"
43 P.L.1985, c.222 (C.52:27D-301 et al.), or in fulfillment of a
44 regional contribution agreement with a municipality that has
45 received a certification, employs or proposes to employ municipally
46 generated funds, funds obtained through any State or federal
47 subsidy, or funds acquired by the municipality under a regional

1 contribution agreement, to finance the provision of affordable
2 housing by extending loans or advances, the repayment of which is
3 secured by a lien, subordinate to any prior lien, upon the property
4 that is to be rehabilitated.

5 g. Any individual who offers or negotiates terms of a
6 residential mortgage loan:

7 (1) with or on behalf of an immediate family member; or

8 (2) secured by a dwelling that served as the individual's
9 residence.

10 h. Any person who, during a calendar year ¹]:

11 (1)]¹ takes three or fewer residential mortgage loan applications
12 or offers or negotiates the terms of three or fewer residential
13 mortgage loans ¹];

14 (2) takes three or fewer residential mortgage loan applications
15 for others, or negotiates, places or sells for others, or offers to take
16 an application for, negotiate, place or sell, three or fewer residential
17 mortgage loans in the primary market for others; or

18 (3) takes three or fewer residential mortgage loan applications,
19 or offers, negotiates, originates, or acquires three or fewer
20 residential mortgage loans in the primary market] or makes three or
21 fewer residential mortgage loans related to manufactured housing
22 structures which are:

23 (1) titled by the New Jersey Motor Vehicle Commission;

24 (2) located in a mobile home park as defined in subsection e. of
25 section 3 of P.L.1983, c.400 (C.54:4-1.4); and

26 (3) exempt from taxation as real property pursuant to subsection
27 b. of section 4 of P.L.1983, c.400 (C.54:4-1.5)¹.

28 (cf: P.L.2009, c.53, s.5)

29

30 3. This act shall take effect immediately.

31

32

33

34

35 Exempts certain persons from licensing requirements of the
36 “New Jersey Residential Mortgage Lending Act.”

ASSEMBLY, No. 1784

STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

SYNOPSIS

Exempts certain persons from licensing requirements of the “New Jersey Residential Mortgage Lending Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning licensing requirements for certain residential
2 mortgage lending and amending P.L.2009, c.53.

3

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5 of New Jersey:

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7 1. Section 4 of P.L.2009, c.53 (C.17:11C-54) is amended to
8 read as follows:

9 4. Except as provided under section 5 of this act, beginning no
10 later than July 31, 2010, or a later date approved by the Secretary of
11 the United States Department of Housing and Urban Development
12 pursuant to the provisions of section 1508 of the federal "Secure
13 and Fair Enforcement for Mortgage Licensing Act of 2008,"
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17 brokers, as business licensees:

18 (1) No person shall act as a residential mortgage lender or
19 broker without first obtaining a license under this act, except that a
20 person licensed as a residential mortgage lender may act as a
21 broker, if proper disclosure is made. The department shall issue
22 licenses which specify whether a business licensee is licensed as a
23 residential mortgage lender or broker.

24 (2) No person shall be issued or hold a license as a residential
25 mortgage lender or residential mortgage broker unless one officer,
26 director, partner, owner or principal is a qualified individual
27 licensee of that same type sought or held. The commissioner may,
28 by regulation, require a licensed residential mortgage lender or
29 broker to employ additional qualified individual licensees to
30 properly supervise the business licensee in its branch offices. If a
31 qualified individual licensee allows his license to lapse or for some
32 other reason is no longer affiliated with the business licensee, the
33 business licensee shall notify the commissioner within 10 days, and
34 shall appoint another qualified individual licensee within 90 days or
35 a longer period as permitted by the commissioner.

36 (3) No person licensed as a mortgage banker, correspondent
37 mortgage banker, mortgage broker, or secondary lender under the
38 provisions of the "New Jersey Licensed Lenders Act," sections 1
39 through 49 of P.L.1996, c.157 (C.17:11C-1 et seq.), prior to the
40 effective date of its reform and re-titling as the "New Jersey
41 Consumer Finance Licensing Act" pursuant to P.L.2009, c.53
42 (C.17:11C-51 et al.), shall continue to engage in any activities for
43 which a license was previously issued, and henceforth act as a
44 residential mortgage lender or residential mortgage broker without
45 first obtaining a license under this act.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 b. For residential mortgage lenders and residential mortgage
2 brokers, as qualified individual licensees:

3 (1) No individual shall act as a qualified individual licensee for
4 a residential mortgage lender or residential mortgage broker without
5 first obtaining a license under this act. A qualified individual
6 licensee licensed as a residential mortgage lender or broker may act
7 as a mortgage loan originator.

8 (2) No individual licensee for a mortgage banker, correspondent
9 mortgage banker, mortgage broker, or secondary lender under the
10 provisions of the "New Jersey Licensed Lenders Act," sections 1
11 through 49 of P.L.1996, c.157 (C.17:11C-1 et seq.), prior to the
12 effective date of its reform and re-titling as the "New Jersey
13 Consumer Finance Licensing Act" pursuant to P.L.2009, c.53
14 (C.17:11C-51 et al.), shall continue to engage in any activities for
15 which a license was previously issued, and henceforth act as a
16 qualified individual licensee without first obtaining a license under
17 this act.

18 c. For mortgage loan originators:

19 (1) (a) No individual shall act as a mortgage loan originator
20 without first obtaining a license under this act.

21 (b) No individual, except as provided in paragraph (2) of this
22 subsection, shall be issued or hold a license as a mortgage loan
23 originator unless employed as an originator by one, and not more
24 than one, business licensee, and is subject to the direct supervision
25 and control of that licensee.

26 (2) No loan processor or underwriter who is an independent
27 contractor shall act as a loan processor or underwriter without first
28 obtaining a mortgage loan originator license under this act.

29 (3) No individual registered as a mortgage solicitor under the
30 provisions of the "New Jersey Licensed Lenders Act," sections 1
31 through 49 of P.L.1996, c.157 (C.17:11C-1 et seq.), prior to the
32 effective date of its reform and re-titling as the "New Jersey
33 Consumer Finance Licensing Act" pursuant to P.L.2009, c.53
34 (C.17:11C-51 et al.), shall continue to engage in any activities for
35 which a registration was previously issued, and henceforth act as a
36 mortgage loan originator without first obtaining a license under this
37 act.

38 d. No person shall be considered to be acting as a residential
39 mortgage lender, a residential mortgage broker, a mortgage loan
40 originator or a qualified individual licensee for a residential
41 mortgage lender or residential mortgage broker when engaging in
42 the following activities:

43 (1) sharing of general information about financial sources;

44 (2) discussing hypothetical financing options not related to a
45 specific financing source;

46 (3) giving the homebuyer a list of available financing sources
47 without recommending any of the sources;

- 1 (4) discussing a buyer's ability to afford a home;
2 (5) presenting or discussing generic facts or generic rate sheets;
3 and
4 (6) closing personal property transactions.
5 (cf: P.L.2009, c.53, s.4)

6
7 2. Section 5 of P.L.2009, c.53 (C.17:11C-55) is amended to
8 read as follows:

9 5. The requirements of this act shall not apply to:

10 a. Depository institutions; but subsidiaries and service
11 corporations of these institutions shall not be exempt.

12 b. A registered mortgage loan originator that is registered
13 under the federal "Secure and Fair Enforcement for Mortgage
14 Licensing Act of 2008," title V of Pub.L.110-289 (12 U.S.C. s.5101
15 et seq.).

16 c. A licensed attorney who negotiates the terms of a residential
17 mortgage loan on behalf of a client as an ancillary matter to the
18 attorney's representation of the client, unless the attorney is
19 compensated by a residential mortgage lender, residential mortgage
20 broker, or mortgage loan originator.

21 d. A person licensed as a real estate broker or salesperson
22 pursuant to R.S.45:15-1 et seq., and not engaged in the business of a
23 residential mortgage lender or residential mortgage broker. Any
24 person holding a license under this act as a residential mortgage
25 lender or broker shall be exempt from the licensing and other
26 requirements of R.S.45:15-1 et seq. in the performance of those
27 functions authorized by this act.

28 e. Any employer, other than a residential mortgage lender, who
29 provides residential mortgage loans to his employees as a benefit of
30 employment which are at an interest rate which is not in excess of
31 the usury rate in existence at the time the loan is made, as
32 established in accordance with the law of this State, and on which
33 the borrower has not agreed to pay, directly or indirectly, any
34 charge, cost, expense or any fee whatsoever, other than that interest.

35 f. The State of New Jersey or a municipality, or any agency or
36 instrumentality thereof, which, in accordance with a housing
37 element that has received substantive certification from the Council
38 on Affordable Housing pursuant to the "Fair Housing Act,"
39 P.L.1985, c.222 (C.52:27D-301 et al.), or in fulfillment of a
40 regional contribution agreement with a municipality that has
41 received a certification, employs or proposes to employ municipally
42 generated funds, funds obtained through any State or federal
43 subsidy, or funds acquired by the municipality under a regional
44 contribution agreement, to finance the provision of affordable
45 housing by extending loans or advances, the repayment of which is
46 secured by a lien, subordinate to any prior lien, upon the property
47 that is to be rehabilitated.

1 g. Any individual who offers or negotiates terms of a
2 residential mortgage loan:

3 (1) with or on behalf of an immediate family member; or

4 (2) secured by a dwelling that served as the individual's
5 residence.

6 h. Any person who, during a calendar year:

7 (1) takes three or fewer residential mortgage loan applications
8 or offers or negotiates terms of three or fewer residential mortgage
9 loans;

10 (2) takes three or fewer residential mortgage loan applications
11 for others, or negotiates, places or sells for others, or offers to take
12 an application for, negotiate, place or sell, three or fewer residential
13 mortgage loans in the primary market for others; or

14 (3) takes three or fewer residential mortgage loan applications,
15 or offers, negotiates, originates, or acquires three or fewer
16 residential mortgage loans in the primary market.

17 (cf: P.L.2009, c.53, s.5)

18

19 3. This act shall take effect immediately.

20

21

22 STATEMENT

23

24 This bill exempts certain individuals from the licensing
25 requirements of the "New Jersey Residential Mortgage Lending Act."

26 Under the bill, no person is considered to be acting as a
27 residential mortgage lender, a residential mortgage broker, a
28 mortgage loan originator or a qualified individual licensee for a
29 residential mortgage lender or residential mortgage broker when
30 engaging in the following activities:

31 (1) sharing of general information about financial sources;

32 (2) discussing hypothetical financing options not related to a
33 specific financing source;

34 (3) giving the homebuyer a list of available financing sources
35 without recommending any of the sources;

36 (4) discussing a buyer's ability to afford a home;

37 (5) presenting or discussing generic facts or generic rate sheets;
38 and

39 (6) closing personal property transactions.

40 Additionally, the bill provides that the "New Jersey Residential
41 Mortgage Lending Act" does not apply to any person who, during a
42 calendar year:

43 (1) takes three or fewer residential mortgage loan applications
44 or offers or negotiates terms of three or fewer residential mortgage
45 loans;

46 (2) takes three or fewer residential mortgage loan applications
47 for others, or negotiates, places or sells for others, or offers to take

A1784 MCKEON, SCHAER

6

- 1 an application for, negotiate, place or sell, three or fewer residential
- 2 mortgage loans in the primary market for others; or
- 3 (3) takes three or fewer residential mortgage loan applications,
- 4 or offers, negotiates, originates, or acquires three or fewer
- 5 residential mortgage loans in the primary market.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1784

STATE OF NEW JERSEY

DATED: MAY 8, 2014

The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Bill No. 1784.

This bill exempts certain individuals from the licensing requirements of the “New Jersey Residential Mortgage Lending Act.”

Under the bill, no person is considered to be acting as a residential mortgage lender, a residential mortgage broker, a mortgage loan originator or a qualified individual licensee for a residential mortgage lender or residential mortgage broker when engaging in the following activities:

- (1) sharing of general information about financial sources;
 - (2) discussing hypothetical financing options not related to a specific financing source;
 - (3) giving the homebuyer a list of available financing sources without recommending any of the sources;
 - (4) discussing a buyer's ability to afford a home;
 - (5) presenting or discussing generic facts or generic rate sheets;
- and
- (6) closing personal property transactions.

Additionally, the bill provides that the “New Jersey Residential Mortgage Lending Act” does not apply to any person who, during a calendar year:

- (1) takes three or fewer residential mortgage loan applications or offers or negotiates terms of three or fewer residential mortgage loans;
- (2) takes three or fewer residential mortgage loan applications for others, or negotiates, places or sells for others, or offers to take an application for, negotiate, place or sell, three or fewer residential mortgage loans in the primary market for others; or
- (3) takes three or fewer residential mortgage loan applications, or offers, negotiates, originates, or acquires three or fewer residential mortgage loans in the primary market.

This bill was pre-filed for introduction in the 2014-2015 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

STATEMENT TO
ASSEMBLY, No. 1784

with Assembly Floor Amendments
(Proposed by Assemblymen MCKEON and SCHAER)

ADOPTED: JUNE 23, 2014

The amendments provide that the “New Jersey Residential Mortgage Lending Act” shall not apply to any person who, during a calendar year, takes three or fewer residential mortgage loan applications, offers or negotiates terms of three or fewer residential mortgage loans, or makes three or fewer residential mortgage loans related to manufactured housing structures which are: (1) titled by the New Jersey Motor Vehicle Commission; (2) located in a mobile home park as defined in subsection e. of section 3 of P.L.1983, c.400 (54:4-1.4); and (3) exempt from taxation as real property pursuant to subsection b. of section 4 of P.L.1983, c.400(54:4-1.5).

The amendments also remove a provision added by the bill which would have allowed persons to operate without a license as a residential mortgage lender if they are sharing general information about financing, financing sources, or a buyer’s ability to afford a home.

SENATE COMMERCE COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1784

STATE OF NEW JERSEY

DATED: DECEMBER 8, 2014

The Senate Commerce Committee reports favorably Assembly Bill No. 1784 (1R).

This bill exempts certain individuals from the licensing requirements of the “New Jersey Residential Mortgage Lending Act.” The bill provides that the “New Jersey Residential Mortgage Lending Act” does not apply to any person who, during a calendar year, takes three or fewer residential mortgage loan applications, offers or negotiates terms of three or fewer residential mortgage loans, or makes three or fewer residential mortgage loans related to manufactured housing structures which are: (1) titled by the New Jersey Motor Vehicle Commission; (2) located in a mobile home park as defined in subsection e. of section 3 of P.L.1983, c.400 (C.54:4-1.4); and (3) exempt from taxation as real property pursuant to subsection b. of section 4 of P.L.1983, c.400 (C.54:4-1.5).

As reported by the committee, this bill is identical to Senate Bill No. 2238, as amended and reported by the committee.

SENATE, No. 2238

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED JUNE 23, 2014

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

SYNOPSIS

Exempts certain persons from licensing requirements of the “New Jersey Residential Mortgage Lending Act.”

CURRENT VERSION OF TEXT

As introduced.



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2 mortgage lending and amending P.L.2009, c.53.

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24 (2) No person shall be issued or hold a license as a residential
25 mortgage lender or residential mortgage broker unless one officer,
26 director, partner, owner or principal is a qualified individual
27 licensee of that same type sought or held. The commissioner may,
28 by regulation, require a licensed residential mortgage lender or
29 broker to employ additional qualified individual licensees to
30 properly supervise the business licensee in its branch offices. If a
31 qualified individual licensee allows his license to lapse or for some
32 other reason is no longer affiliated with the business licensee, the
33 business licensee shall notify the commissioner within 10 days, and
34 shall appoint another qualified individual licensee within 90 days or
35 a longer period as permitted by the commissioner.

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37 mortgage banker, mortgage broker, or secondary lender under the
38 provisions of the "New Jersey Licensed Lenders Act," sections 1
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Matter underlined thus is new matter.

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19 (1) (a) No individual shall act as a mortgage loan originator
20 without first obtaining a license under this act.

21 (b) No individual, except as provided in paragraph (2) of this
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24 than one, business licensee, and is subject to the direct supervision
25 and control of that licensee.

26 (2) No loan processor or underwriter who is an independent
27 contractor shall act as a loan processor or underwriter without first
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29 (3) No individual registered as a mortgage solicitor under the
30 provisions of the "New Jersey Licensed Lenders Act," sections 1
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36 mortgage loan originator without first obtaining a license under this
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38 d. No person shall be considered to be acting as a residential
39 mortgage lender, a residential mortgage broker, a mortgage loan
40 originator or a qualified individual licensee for a residential
41 mortgage lender or residential mortgage broker when engaging in
42 the following activities:

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44 (2) discussing hypothetical financing options not related to a
45 specific financing source;

46 (3) giving the homebuyer a list of available financing sources
47 without recommending any of the sources;

48 (4) discussing a buyer's ability to afford a home;

1 (5) presenting or discussing generic facts or generic rate sheets;
2 and
3 (6) closing personal property transactions.
4 (cf: P.L.2009, c.53, s.4)

5
6 2. Section 5 of P.L.2009, c.53 (C.17:11C-55) is amended to
7 read as follows:

8 5. The requirements of this act shall not apply to:

9 a. Depository institutions; but subsidiaries and service
10 corporations of these institutions shall not be exempt.

11 b. A registered mortgage loan originator that is registered
12 under the federal "Secure and Fair Enforcement for Mortgage
13 Licensing Act of 2008," title V of Pub.L.110-289 (12 U.S.C. s.5101
14 et seq.).

15 c. A licensed attorney who negotiates the terms of a residential
16 mortgage loan on behalf of a client as an ancillary matter to the
17 attorney's representation of the client, unless the attorney is
18 compensated by a residential mortgage lender, residential mortgage
19 broker, or mortgage loan originator.

20 d. A person licensed as a real estate broker or salesperson
21 pursuant to R.S.45:15-1 et seq., and not engaged in the business of a
22 residential mortgage lender or residential mortgage broker. Any
23 person holding a license under this act as a residential mortgage
24 lender or broker shall be exempt from the licensing and other
25 requirements of R.S.45:15-1 et seq. in the performance of those
26 functions authorized by this act.

27 e. Any employer, other than a residential mortgage lender, who
28 provides residential mortgage loans to his employees as a benefit of
29 employment which are at an interest rate which is not in excess of
30 the usury rate in existence at the time the loan is made, as
31 established in accordance with the law of this State, and on which
32 the borrower has not agreed to pay, directly or indirectly, any
33 charge, cost, expense or any fee whatsoever, other than that interest.

34 f. The State of New Jersey or a municipality, or any agency or
35 instrumentality thereof, which, in accordance with a housing
36 element that has received substantive certification from the Council
37 on Affordable Housing pursuant to the "Fair Housing Act,"
38 P.L.1985, c.222 (C.52:27D-301 et al.), or in fulfillment of a
39 regional contribution agreement with a municipality that has
40 received a certification, employs or proposes to employ municipally
41 generated funds, funds obtained through any State or federal
42 subsidy, or funds acquired by the municipality under a regional
43 contribution agreement, to finance the provision of affordable
44 housing by extending loans or advances, the repayment of which is
45 secured by a lien, subordinate to any prior lien, upon the property
46 that is to be rehabilitated.

47 g. Any individual who offers or negotiates terms of a
48 residential mortgage loan:

1 (1) with or on behalf of an immediate family member; or
2 (2) secured by a dwelling that served as the individual's
3 residence.

4 h. Any person who, during a calendar year:

5 (1) takes three or fewer residential mortgage loan applications
6 or offers or negotiates terms of three or fewer residential mortgage
7 loans;

8 (2) takes three or fewer residential mortgage loan applications
9 for others, or negotiates, places or sells for others, or offers to take
10 an application for, negotiate, place or sell, three or fewer residential
11 mortgage loans in the primary market for others; or

12 (3) takes three or fewer residential mortgage loan applications,
13 or offers, negotiates, originates, or acquires three or fewer
14 residential mortgage loans in the primary market.

15 (cf: P.L.2009, c.53, s.5)

16

17 3. This act shall take effect immediately.

18

19

20

STATEMENT

21

22 This bill exempts certain individuals from the licensing
23 requirements of the “New Jersey Residential Mortgage Lending
24 Act.”

25 Under the bill, no person is considered to be acting as a
26 residential mortgage lender, a residential mortgage broker, a
27 mortgage loan originator or a qualified individual licensee for a
28 residential mortgage lender or residential mortgage broker when
29 engaging in the following activities:

30 (1) sharing of general information about financial sources;

31 (2) discussing hypothetical financing options not related to a
32 specific financing source;

33 (3) giving the homebuyer a list of available financing sources
34 without recommending any of the sources;

35 (4) discussing a buyer's ability to afford a home;

36 (5) presenting or discussing generic facts or generic rate sheets;
37 and

38 (6) closing personal property transactions.

39 Additionally, the bill provides that the “New Jersey Residential
40 Mortgage Lending Act” does not apply to any person who, during a
41 calendar year:

42 (1) takes three or fewer residential mortgage loan applications
43 or offers or negotiates terms of three or fewer residential mortgage
44 loans;

45 (2) takes three or fewer residential mortgage loan applications
46 for others, or negotiates, places or sells for others, or offers to take
47 an application for, negotiate, place or sell, three or fewer residential
48 mortgage loans in the primary market for others; or

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6

- 1 (3) takes three or fewer residential mortgage loan applications,
- 2 or offers, negotiates, originates, or acquires three or fewer
- 3 residential mortgage loans in the primary market.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2238

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 8, 2014

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 2238.

This bill, as amended, exempts certain individuals from the licensing requirements of the “New Jersey Residential Mortgage Lending Act.” The bill provides that the “New Jersey Residential Mortgage Lending Act” shall not apply to any person who, during a calendar year, takes three or fewer residential mortgage loan applications, offers or negotiates terms of three or fewer residential mortgage loans, or makes three or fewer residential mortgage loans related to manufactured housing structures which are: (1) titled by the New Jersey Motor Vehicle Commission; (2) located in a mobile home park as defined in subsection e. of section 3 of P.L.1983, c.400 (C.54:4-1.4); and (3) exempt from taxation as real property pursuant to subsection b. of section 4 of P.L.1983, c.400 (C.54:4-1.5).

As amended and reported, this bill is identical to Assembly Bill No. 1784(1R), as reported by the committee.

Committee Amendments

The committee amended the bill to:

(1) Provide that the “New Jersey Residential Mortgage Lending Act” shall not apply to any person who, during a calendar year, takes three or fewer residential mortgage loan applications, offers or negotiates terms of three or fewer residential mortgage loans, or makes three or fewer residential mortgage loans related to certain manufactured housing structures.

(2) Remove a provision added by the bill which would have allowed persons to operate without a license as a residential mortgage lender if they are sharing general information about financing, financing sources, or a buyer’s ability to afford a home.