

17:11A-36

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

(Municipal housing loan programs--
exampntions from licensure)

NJSA: 17:11A-36

LAWS OF: 1993 **CHAPTER:** 207

BILL NO: S462

SPONSOR(S) Dimon

DATE INTRODUCED: February 27 1993

COMMITTEE: **ASSEMBLY:** Financial Institutions
SENATE: Community Affairs

AMENDED DURING PASSAGE: Yes Amendments during passage
Second reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** May 20, 1993
SENATE: October 29, 1992

DATE OF APPROVAL: July 30, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[SECOND REPRINT]

SENATE, No. 462

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 27, 1992

By Senator DIMON

1 AN ACT to exempt certain municipal housing loan programs from
2 the licensure requirements of the "Secondary Mortgage Loan
3 Act," and amending P.L.1970, c.205.

4

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

7 1. Section 3 of P.L.1970, c.205 (C.17:11A-36) is amended to
8 read as follows:

9 3. a. No person shall engage in the secondary mortgage loan
10 business in this State unless such person shall first obtain a
11 license under this act. For the purpose of this act, a person is
12 deemed to be engaged in the secondary mortgage loan business in
13 this State if: (a) such person advertises, causes to be advertised,
14 solicits, negotiates, offers to make or makes a secondary
15 mortgage loan in this State, whether directly or by any person
16 acting for his benefit; or (b) such person becomes the subsequent
17 holder of a promissory note or mortgage, indenture or any other
18 similar instrument or document received in connection with a
19 secondary mortgage loan. A real estate broker licensed pursuant
20 to the provisions of the law of this State or an attorney
21 authorized to practice law in this State shall not be required to
22 obtain a license to negotiate a secondary mortgage loan in the
23 normal course of the business of a real estate broker or attorney.

24 b. No corporation, partnership, association or other entity,
25 other than an individual, shall obtain a license unless at least one
26 officer, partner, member or other principal is licensed under the
27 "Secondary Mortgage Loan Act," P.L.1970, c.205 (C.17:11A-34 et
28 seq.).

29 c. Any person who makes two or fewer secondary mortgage
30 loans in this State during any calendar year which are at an
31 interest rate which is not in excess of the usury rate in existence
32 at the time the loan is made, as established in accordance with
33 the law of this State, and on which the borrower has not agreed
34 to pay, directly or indirectly, any charge, cost, expense or any
35 fee whatsoever, other than said interest, shall not be required to
36 obtain a license under the provisions of P.L.1970, c.205
37 (C.17:11A-34 et seq.).

38 d. ¹Any employer who provides secondary mortgage loans
39 solely to his employees as a benefit of employment which are at
40 an interest rate which is not in excess of the usury rate in
41 existence at the time the loan is made, as established in
42 accordance with the law of this State, and on which the

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:

¹ Assembly AFI committee amendments adopted March 22, 1993.

² Assembly floor amendments adopted March 29, 1993.

1 borrower has not agreed to pay, directly or indirectly, any
2 charge, cost, expense or any fee whatsoever, other than said
3 interest, shall not be required to obtain a license under the
4 provisions of P.L.1970, c.205 (C.17:11A-34 et seq.).

5 e.¹ A municipality which, in accordance with a housing
6 element that has received substantive certification from the
7 Council on Affordable Housing pursuant to the "Fair Housing
8 Act," P.L.1985, c.222 (C.52:27D-301 et al.), or in fulfillment of a
9 regional contribution agreement with a municipality that has
10 received such certification, employs or proposes to employ
11 municipally generated funds, funds obtained through any State or
12 federal subsidy, or funds acquired by the municipality under a
13 regional contribution agreement, to finance the provision of
14 affordable housing by extending loans or advances the repayment
15 of which is secured by a lien, subordinate to any prior lien, upon
16 the property that is to be rehabilitated, shall not be required to
17 ¹[be licensed] obtain a license¹ under ¹the provisions of¹
18 P.L.1970, c.205 (C.17:11A-34 et seq.) in order to make such loans
19 or advances; nor shall any officer or employee of such a
20 municipality, or of any agency or instrumentality thereof, be
21 required individually to ¹[be so licensed] so obtain a license.
22 ²[Nothing in this subsection e. shall exempt a municipality
23 governed by this act from the regulatory authority of the
24 Department of Banking under the "Secondary Mortgage Loan
25 Act," P.L.1970, c.205 (C.17:11A-34 et seq.)¹.]²

26 (cf: P.L.1992, c.123, s.1)

27 2. This act shall take effect immediately.

28
29
30
31
32

Exempts certain municipal housing loan programs from licensure
33 requirements of "Secondary Mortgage Loan Act."

1 such certification, employs or proposes to employ municipally
2 generated funds, funds obtained through any State or federal
3 subsidy, or funds acquired by the municipality under a regional
4 contribution agreement, to finance the provision of affordable
5 housing by extending loans or advances the repayment of which is
6 secured by a lien, subordinate to any prior lien, upon the property
7 that is to be rehabilitated, shall not be required to be licensed
8 under P.L.1970, c.205 (C.17:11A-34 et seq.) in order to make such
9 loans or advances; nor shall any officer or employee of such a
10 municipality, or of any agency or instrumentality thereof, be
11 required individually to be so licensed.

12 (cf: P.L.1989, c.312, s.1)

13 2. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 Some municipalities seeking to provide their "fair share" of
19 affordable housing wish to utilize available funds -- whether
20 municipally generated, provided by State or federal subsidy, or
21 acquired in connection with a regional contribution agreement --
22 to help finance rehabilitation of currently substandard housing.
23 This may be done by extending loans at little or no interest,
24 secured by subordinate liens upon properties that are already
25 mortgaged. The Department of Banking, however, has pointed
26 out that such subordinate liens fit the definition of loans that are
27 regulated under the "Secondary Mortgage Loan Act," P.L.1970,
28 c.205 (C.17:11A-34 et seq.) and there is no exception in the
29 statute for municipalities. Accordingly, a municipality wishing to
30 institute a loan program of this type would be required to be
31 licensed to "engage in the secondary loan business in this State."
32 (P.L.1970, c.205, s.3; C.17:11A-36).

33 This bill would relieve municipalities of that requirement when
34 they institute a rehabilitation-loan program in accordance with a
35 housing element that has been granted substantive certification
36 by the Council on Affordable Housing pursuant to the "Fair
37 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.).

38

39

40

41

42 Exempts certain municipal housing loan programs from licensure
43 requirements of "Secondary Mortgage Loan Act."

ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

SENATE, No. 462

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 22, 1993

The Assembly Financial Institutions Committee favorably reports, with committee amendments, Senate, No. 462.

This bill would permit municipalities to institute a rehabilitation-loan program in accordance with a housing element that has been granted substantive certification by the Council on Affordable Housing pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) without having to be licensed under the "Secondary Mortgage Loan Act," P.L.1970, c.205 (C.17:11A-34 et seq.).

Amendments to the bill make technical changes necessitated by the passage of other legislation since this bill was introduced affecting this section of law and provide that a municipality which engages in the business of making loans secured by a second lien on real property, while exempt from the requirement to obtain a license, still come under the regulatory authority of the Department of Banking with respect to other provisions protecting consumers under the "Secondary Mortgage Loan Act."

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 462

STATE OF NEW JERSEY

DATED: OCTOBER 1, 1992

The Senate Community Affairs Committee favorably reports Senate Bill No. 462.

Senate Bill No. 462 relieves municipalities which seek to implement their "Mount Laurel" obligations from the licensing requirements of the "Secondary Mortgage Loan Act," P.L.1970, c.205 (C.17:11A-34 et seq.).

Some municipalities seeking to provide their "fair share" of affordable housing wish to utilize available funds -- whether municipally generated, provided by State or federal subsidy, or acquired in connection with a regional contribution agreement -- to help finance rehabilitation of currently substandard housing. This may be done by extending loans at little or no interest, secured by subordinate liens upon properties that are already mortgaged. The Department of Banking, however, has pointed out that such subordinate liens fit the definition of loans that are regulated under the "Secondary Mortgage Loan Act," P.L.1970, c.205 (C.17:11A-34 et seq.) and there is no exception in the statute for municipalities. Accordingly, a municipality wishing to institute a loan program of this type would be required to be licensed to "engage in the secondary loan business in this State." (P.L.1970, c.205, s.3; C.17:11A-36).

This bill would relieve municipalities of that requirement when they institute a rehabilitation-loan program in accordance with a housing element that has been granted substantive certification by the Council on Affordable Housing pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.).