

## INSTRUCTIONS

The Mortgage Stabilization and Relief Act, P.L. 2008, c. 127, (“the Act”) enacted on January 9, 2009, requires the Department of Banking and Insurance (Department) to promulgate regulations to effectuate Section 15 of the Act, N.J.S.A. 46:10B-49. Section fifteen requires all creditors that institute a mortgage foreclosure action in the Superior Court of New Jersey (Court) to report to the Department on a quarterly basis, on a form promulgated by the Department, information about the number of mortgage foreclosure actions filed by the creditor. Only creditors who file at least one complaint seeking to foreclose on a residential mortgage during a calendar quarter are required to report data for that time period.

The Department anticipates that the entity filing the information on behalf of the creditor will be the servicer of the mortgage. If there is no servicer, the entity submitting the information will be the mortgagee itself.

Creditors shall report the data by county and municipality of the mortgaged property and the year in which the mortgage was executed. Data will be reported on the number of mortgages on which complaints seeking foreclosure were filed in each of the following categories: fixed rate mortgages; adjustable rate mortgages; conforming mortgages; non-conforming mortgages; VA mortgages; FHA mortgages; USDA rural development mortgages; prime rate mortgages; subprime rate mortgages and interest only mortgages.

These are not exclusive categories and it is expected that many mortgages will fall into several categories. For instance, a single mortgage could be a non-conforming, fixed

rate, prime rate mortgage and therefore be reported as a non-conforming mortgage as well as a fixed rate mortgage and additionally as a prime rate mortgage. Thus, in the data reported for such a mortgage the creditor would add one to the number of non-conforming mortgages, one to the number of fixed rate mortgages, one to the number of prime rate mortgages and one to the number of mortgages with its year of origination on which a foreclosure complaint had been filed.

To maintain consistency with certain reporting standards already in place, the definitions of “subprime rate mortgage” and “prime rate mortgage” are patterned after definitions used by the Federal Housing Finance Agency (FHFA), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS) in their Mortgage Metrics Reports. For purposes of these reporting requirement rules only, prime rate mortgages are defined as mortgages given to borrowers with a FICO score of 660 or higher and subprime rate mortgages are defined as mortgages given to borrowers with a FICO score of 659 or lower. Please note that the proposed definitions of “prime rate mortgage” and “subprime rate mortgage” are appropriate for use as definitions only in the limited context of this report.

The first period for which creditors must report data will be the calendar quarter for July 1, 2009 through September 30, 2009. The Department issued Bulletin No. 09-13 to provide guidance to creditors on complying with the Act until the rules are formally adopted. Consistent with the proposed rules, that Bulletin also indicated that creditors would file their initial report containing data for the third quarter, 2009 by October 30, 2009. However, due to delays in creating the web-based system to enable creditors to file the reports electronically, that system will not be available before mid- to late-November,

2009. Consequently, creditors will not be able to file their reports for the third quarter, 2009 data by the October 30, 2009 date indicated in Bulletin No. 09-13 and in the Notice of Proposed Rules. The Department intends to amend the rules upon adoption to provide for a delayed filing deadline of December 31, 2009 for the third quarter, 2009 initial report. The adopted rules will require that all subsequent reports, commencing with the report for the fourth quarter, 2009, shall be due within 30 days of the close of the calendar quarter, as was set forth in the Notice of Proposed New Rules. Thus, the system will become available for input for the next calendar quarter (October 1, 2009 through December 31, 2009) in January 2010.

The individual entering the data on behalf of the creditor shall enter the name of the servicer/creditor for which they are reporting and their own name. The individual shall certify as to their authority to submit the report and that, to the best of their knowledge, the information provided in the submission is truthful and accurate. Creditors shall retain copies of the information reported to the Department for at least three years from the date of reporting. Production of the retained information may be requested by the Department at any time during that period for audit purposes.

**Definitions:** The following definitions are supplied for reporting purposes pursuant to N.J.S.A. 46:10B-49 only and should not be considered indicative of the Department's interpretation of the terms for any other use.

Please note that the proposed definitions for "prime rate mortgage" and "subprime rate mortgage" are appropriate for use as definitions only in the limited context of this report. For purposes of this reporting requirement the categories of "prime" and "subprime" are differentiated by FICO scores.

**"Adjustable rate mortgage"** means a mortgage loan that does not have a fixed interest rate. During the life of the loan the interest rate will change based on a specified index rate or on some other basis. Also known as adjustable mortgage loans or variable rate mortgages.

**"Conforming mortgage"** means a mortgage with a loan amount that does not exceed the loan limits set by the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac) or their successors.

**"Creditor"** means a mortgagee or an agent or assignee of a mortgagee, such as the servicer, who has instituted an action to foreclose a mortgage in the Superior Court of New Jersey.

**"FHA mortgage"** means a mortgage insured by the Federal Housing Administration.

**"FICO score"** means a borrower's credit score calculated using methodology developed by Fair Isaac Corporation.

**"Fixed rate mortgage"** means a mortgage with payments that remain the same throughout the life of the loan because the interest rate and other terms are fixed and do not change.

**"Interest only mortgage"** means a mortgage where the borrower has the option of paying only the interest for a limited period of time.

**"Mortgage foreclosure proceeding instituted"** means filing of a complaint in the Superior Court of New Jersey seeking to foreclose upon a residential mortgage.

**"Nonconforming mortgage"** means a mortgage with a loan amount that exceeds the loan limits set by the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac), or their successors.

**"Prime rate mortgage"** means a mortgage given to a borrower with a FICO score of 660 or more.

**"Reporting quarter"** means the calendar quarter immediately prior to the month in which the data is being inputted in accordance with N.J.A.C. 3:10-9 et seq.

**"Residential mortgage"** means a mortgage in which the security is an owner occupied residential property of not more than four dwelling units as defined by N.J.S.A. 2A:50-55.

**"Servicer"** means a business that collects mortgage payments from borrowers and manages the borrower's escrow accounts.

**"Subprime rate mortgage"** means a mortgage given to a borrower with a FICO score of less than 660.

**"USDA Rural Development Loan"** means a mortgage insured by Rural Development Office of the United States Department of Agriculture.

**"VA mortgage"** means a mortgage insured by the Veteran's Administration.

SAMPLE REPORTING FORM

**With the exception of the total number of mortgages on which the creditor instituted a foreclosure proceeding in all of New Jersey for the reporting quarter, all information shall be reported by municipality.**

**The creditor shall be identified by the name of the servicer. If the mortgage is not being managed by a servicer, the mortgagee's name shall be entered.**

**A.** Identification

Identification of servicer \_\_\_\_\_

Input mortgagee's name if no servicer

\_\_\_\_\_

Name of individual submitting data \_\_\_\_\_

**B.** Set forth the total number of residential mortgages on which you instituted a foreclosure action in New Jersey for the relevant reporting quarter. \_\_\_\_\_

**C-H For each municipality where a mortgaged property or properties on which you instituted a foreclosure action during the reporting quarter was located, please report the following:**

**C.** County where the residential property is located

Municipality where the residential property is located

**D.** Of the total number of mortgages on which you instituted a foreclosure action on a mortgage on a property situated in the above municipality during the relevant reporting quarter, the number of such mortgages that were executed:

1) prior to 2002 \_\_\_\_\_

2) in 2002 \_\_\_\_\_

3) in 2003 \_\_\_\_\_

4) in 2004 \_\_\_\_\_

5) in 2005 \_\_\_\_\_

6) in 2006 \_\_\_\_\_

7) in 2007 \_\_\_\_\_

8) in 2008 \_\_\_\_\_

9) in 2009 \_\_\_\_\_

**E.** Number of mortgage foreclosure proceedings instituted on mortgages on properties situated in the above municipality for the relevant reporting quarter that were:

1) conventional \_\_\_\_\_

2) FHA \_\_\_\_\_

3) VA \_\_\_\_\_

4) USDA Rural Development Loan \_\_\_\_\_

**F.** Number of mortgage foreclosure proceedings instituted on mortgages on properties situated in the above municipality in the reporting quarter that were:

1) conforming mortgages \_\_\_\_\_

2) nonconforming mortgages \_\_\_\_\_

**G.** Number of foreclosure proceedings instituted on mortgages on properties situated in the above municipality in the reporting quarter that were on mortgages made to borrowers with a:

1) FICO score of 660 and above \_\_\_\_\_

2) with a FICO score of 659 or lower \_\_\_\_\_

3) FICO score is unavailable \_\_\_\_\_

Where the FICO score is unavailable, was the borrower considered, in accordance with the standards of the mortgagee on the note, to be:

4) subprime \_\_\_\_\_

5) prime \_\_\_\_\_

Note: Only if the FICO score is not available at the time of the filing of the foreclosure action may the creditor who is reporting the information rely on their own or the originator's definition of "prime" or "subprime."

**H.** Number of foreclosure proceedings instituted on mortgages on properties situated in the above municipality in the reporting quarter that were

- 1) fixed rate mortgages \_\_\_\_\_
- 2) adjustable rate mortgages \_\_\_\_\_
- 3) interest only mortgages \_\_\_\_\_

**CERTIFICATION**

I certify that I am the person whose name is entered above as the individual submitting this data, that I am authorized to do so on behalf of the servicer or creditor named above, and that the information provided in this submission is, to the best of my knowledge, truthful and accurate. I am aware that if any of the information supplied in this report is willfully false I am subject to punishment.