



State of New Jersey
DEPARTMENT OF BANKING AND INSURANCE
LEGISLATIVE AND REGULATORY AFFAIRS
PO Box 325
TRENTON, NJ 08625-0325

JON S. CORZINE
Governor

TEL (609) 984-3602
FAX (609) 292-0896

NEIL N. JASEY
Commissioner

BULLETIN NO. 09-31

TO: ALL LICENSED LENDERS WITH MORTGAGE BANKER, CORRESPONDENT MORTGAGE BANKER, MORTGAGE BROKER AND SECONDARY LENDER AUTHORITY(IES) AND ALL REGISTERED MORTGAGE SOLICITORS

FROM: NEIL N. JASEY, COMMISSIONER

RE: INDIVIDUALS INELIGIBLE FOR LICENSURE UNDER THE RESIDENTIAL MORTGAGE LENDING ACT

The Residential Mortgage Lending Act, P.L. 2009, c. 53 ("RMLA") was enacted on May 4, 2009 in response to new federal requirements established in the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 U.S.C. s. 5101, et seq. ("SAFE"). Upon its being fully implemented on or before August 1, 2010, RMLA will replace the provisions in the Licensed Lenders Act applicable to mortgage licensees and solicitors and establish new licensing standards, business practices and oversight for residential mortgage lenders, correspondent mortgage lenders, residential mortgage brokers, qualified individual licensees and mortgage loan originators. Pursuant to the SAFE Act and RMLA, individuals with a criminal record that includes a conviction of one or more specified offenses who seek licensure as a mortgage loan originator or as a qualified individual licensee under the RMLA are ineligible for such licensure. Moreover, a provision in P.L. 2009, c. 53 also amended New Jersey's Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., to make it inapplicable to individuals applying for licensure under the RMLA. See N.J.S.A. 2A:168A-2 and 168A-7.

The effect of these new laws and amendments is to provide that individuals with a criminal record that includes a conviction of any of the following disqualifying offenses within the seven years preceding the filing of their application shall be ineligible for licensure as a mortgage loan originator or qualified individual licensee:

1. Any federal crime for which the maximum punishment authorized by law exceeds one year of imprisonment.
2. Any crime identified as an offense of the first, second, third or fourth degree pursuant to N.J.S.A. 2C:1-4 and 43-1, and for which the maximum punishment authorized by law exceeds one year of imprisonment.

3. Any crime identified as a high misdemeanor or misdemeanor by Title 2A of the New Jersey Statutes for which the maximum punishment authorized by law exceeds one year of imprisonment.
4. Any crime in any other state, commonwealth, territory or possession, whether or not the crime is identified as a felony in that state, commonwealth, territory or possession, for which the maximum punishment authorized by law exceeds one year imprisonment.

In addition, individuals who have been convicted of such an offense at any time in their lives are permanently barred from licensure under the RMLA if the offense involved an act of fraud, dishonesty, breach of trust, or money laundering. An applicant is not disqualified from licensure based upon any conviction that has been pardoned or expunged, regardless of the nature or date of the conviction.

As the agency responsible for the implementation and enforcement of these laws, the Department is bound to apply these provisions. Consequently, the application of any person for licensure as a mortgage loan originator or qualified individual licensee under the RMLA whose criminal history includes such a disqualifying conviction will be denied, regardless of the extent of their rehabilitation, their personal hardship or their status as a currently licensed individual mortgage banker, correspondent mortgage banker, mortgage broker or secondary lender or as a registered mortgage solicitor under the Licensed Lenders Act.

Additional information regarding this Bulletin will appear on the Department's website, <http://www.state.nj.us/dobi/legsregs.htm> in the near future. A copy of this bulletin will also be posted to the website.

To access the text of the RMLA, please see <http://www.njleg.state.nj.us/2008/Bills/AL09/53 .HTM>

Business licensees are directed to disseminate this Bulletin to their licensed individuals and registered mortgage solicitors immediately.

09/30/09
Date

/s/ Neil N. Jasey
Neil N. Jasey
Commissioner

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