BANKING
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF BANKING

Mortgages

Proposed Readoption: N.J.A.C. 3:10

Proposed Repeals: N.J.A.C. 3:10 1, 2, 3, 4, 6 and 7

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

Authority: N.J.S.A. 17:1-8.1, 17:1-15(e) and 17:12B-48(21).

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

Proposal Number: PRN 2006-247.

Submit comments by October 6, 2006 to:

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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1c, the rules at N.J.A.C. 3:10, concerning mortgages will expire on December 28, 2006. The Department of Banking and Insurance has reviewed these rules and determined some of them to be necessary, reasonable and proper for the purpose for which they were promulgated: as required by Executive Order No. 66 (1978). Therefore, in accordance with N.J.S.A. 52:14B-5.1, those rules are proposed for readoption. In addition, the Department has determined that those rules directed to the establishment of parity between State banks and national banks with regard to mortgages, duplicate other parity rules found in the New Jersey Administrative Code at N.J.A.C. 3:6-12.1 and, therefore, are now redundant. Those rules are proposed for repeal.

The intent of the rules proposed for repeal was to create and maintain parity between State banks and national banks regarding mortgages. That intent is served by N.J.A.C. 3:6-12.1, State bank and savings bank parity with Federal and out-of State institutions. N.J.A.C. 3:6-12.1 serves the stated purposes of creating and maintaining that parity and delineates the rules and procedures required in exercising parity. This renders the parity provisions in N.J.A.C. 3:10 redundant. Consequently, they are being proposed for repeal.

The rules which the Department has determined to be necessary, reasonable and proper for the purpose for which they were promulgated are N.J.A.C. 3:10-5.1 and 8.1.

N.J.A.C 3:10-5.1 limits to $5.00 the amount a lender or other servicing entity may charge for substitution by the mortgagor in mid-term of an insurance policy or policies.

N.J.A.C. 3:10-8.1 states that a bank or savings bank may originate or acquire mortgage loans up to 100 percent of appraised value under certain circumstances and conditions and delineates those conditions.

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 in this chapter affect lenders of mortgages and the consumers who borrow that money. The repeal of those rules which are proposed for repeal will have no effect on the lenders or consumers, as they are duplicative of existing rules that allow for parity between State regulated entities and Federal and out-of-State entities.

The rules proposed for readoption on the relaxed appraisal ratio will continue to aid eligible consumers to obtain homes within the State. N.J.A.C. 3:10-5.1, limiting the charge for the mid-term substitution of an insurance policy will continue to protect consumers and afford them greater freedom of choice.

Economic Impact

N.J.A.C. 3:10-5.1 proposed for readoption will continue to limit to $5.00 the amount a lender or a legal entity servicing mortgages may charge for substitution in mid-term of an insurance policy on the property encumbered by the mortgage. This limit has a negative economic impact on lenders and servicers, and there is a corresponding positive economic impact on borrowers.

The rule on relaxed appraisal ratio for certain loans, N.J.A.C. 3:10-8.1, which is proposed for readoption should have a positive effect on lenders and consumers by making it easier for lenders to make money available to certain consumers, including many first-time home buyers and low or moderate income consumers.

The rules proposed for repeal should have no economic impact as the rules are duplicative of other existing rules.

Federal Standards Statement

Pursuant to Executive Order No. 27 (1994), a Federal standards analysis is required when an agency adopts, readopts, or amends rules that exceed any Federal standards or requirements, and must include in the rulemaking document a comparison with the Federal rule or law. There are no Federal standards applicable to the rules proposed for readoption.

Jobs Impact

The Department does not anticipate that the rules proposed for readoption will result in the generation or loss of jobs. The Department invites commenters to submit any data or studies concerning the jobs impact of the rules proposed for readoption and repeal together with their written comments on other aspects of this proposal.

Agriculture Industry Impact

The Department does not expect any agriculture industry impact as a result of the rules proposed for readoption and repeal.

Regulatory Flexibility Analysis

The rule proposed for readoption on relaxed appraisal ratios, N.J.A.C. 3:10.8.1, does not place any reporting, recordkeeping or compliance requirements on mortgage lenders, some of which are small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

The maximum charge of $5.00 established in N.J.A.C. 3:10-5.1 is a reasonable charge appropriate for covering the administrative costs of the transaction. Since the administrative cost should not vary from small to large institution, no differentiation is made based on business size. In addition, it is not believed that compliance with these rules requires professional assistance.

<u>**Smart Growth Impact Statement**</u>

The rules proposed for readoption and repeal have no impact on the achievement of smart growth and implementation of the State Plan.

<u>**Full text**</u> of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:10.

<u>Full text</u> of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 3:10-1, 2, 3, 4, 6 and 7.

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