

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE CONDITIONAL)
APPROVAL OF APPLICANTS FOR) ORDER
LICENSURE UNDER THE NEW JERSEY)
RESIDENTIAL MORTGAGE LENDING ACT)
)

This matter having been opened by the Commissioner of the Department of Banking and Insurance (“Commissioner”) pursuant to P.L. 2009, c. 53 and the New Jersey Residential Mortgage Lending Act, N.J.S.A. 17:11C-51, et seq. (“RMLA”) and all powers expressed or implied therein; and

IT APPEARING that the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 U.S.C. § 5101 et seq. (“SAFE Act”) establishes a nationwide framework for the licensing of mortgage loan originators (“MLOs”) and that the RMLA establishes licensure requirements for businesses and individuals seeking to engage in residential mortgage lending or brokering activity in this State and requires the relicensure of businesses and individuals currently licensed under the New Jersey Licensed Lenders Act, N.J.S.A. 17:11C-1 et seq. (“LLA”), which expires on July 31, 2010; and

IT FURTHER APPEARING that Order No. A10-102 requires that business entities seeking to transition from licensure under the LLA to RMLA licensure submit their complete electronic application through the Nationwide Mortgage Licensing System (NMLS) at www.mortgage.nationwidelicensingsystem.org, no later than April 30, 2010 to be assured that,

presuming they otherwise qualify for such licensure, their application for a RMLA business entity license will be approved on or before July 31, 2010; and

IT FURTHER APPEARING that Order No. A10-102 requires that individuals seeking to transition from licensure under the LLA to RMLA licensure as qualified individual licensees (“QILs”) submit their complete electronic application through the NMLS no later than April 30, 2010 to be assured that, presuming they otherwise qualify for such licensure, their application for a RMLA QIL license will be approved on or before July 31, 2010; and

IT FURTHER APPEARING that Order No. A10-102 requires that individuals holding mortgage solicitor registrations who seek to transition from registration under the LLA to RMLA licensure as mortgage loan originators submit their complete electronic application through the NMLS no later than May 15, 2010 to be assured that, presuming they otherwise qualify for such licensure, their application for a MLO license will be approved on or before July 31, 2010; and

IT FURTHER APPEARING that, pursuant to the RMLA, applicants for licensure as QILs and MLOs shall demonstrate to the Commissioner their financial responsibility and character and fitness as set forth in N.J.S.A. 17:11C-57; and

IT FURTHER APPEARING that an applicant’s demonstration of financial responsibility and character and fitness shall include an independent credit report from a consumer reporting agency as set forth in N.J.S.A. 17:11C-57a.(2)(b)(i); and

IT FURTHER APPEARING that all functionalities of the electronic licensure application through the NMLS are currently operational with the exception of the function related to the authorization for a credit report; and

IT FURTHER APPEARING that the NMLS credit report authorization function is not expected to be operational until October, 2010; and

IT FURTHER APPEARING that a majority of the other states operating through the NMLS have determined that, in order to provide adequate time for credit reports to be authorized and obtained through the NMLS, it is necessary for individual license applicants to authorize access to their credit reports through the NMLS within a reasonable period of time subsequent to October, 2010, to be determined after the NMLS credit report authorization function becomes operational; and

IT FURTHER APPEARING that, pursuant to section 4 of the RMLA, N.J.S.A. 17:11C-54, in New Jersey to qualify for licensure a business entity is required to designate a QIL; and

IT FURTHER APPEARING that because the credit report authorization function of the NMLS will not be available until October, 2010, individuals seeking licensure as a QIL or as an MLO will not be able to complete their license application through the NMLS and demonstrate that they satisfy all of the requirements for licensure before August 1, 2010 and, consequently, no business entity seeking licensure under the RMLA will be able to fully qualify for such licensure before August 1, 2010 because of the inability of the entity's designated QIL to authorize the NMLS to obtain a credit report so as to complete his or her application for licensure; and

IT FURTHER APPEARING that the public interest requires that after the expiration of the LLA on July 31, 2010, mortgage lending and brokerage services continue to be available to consumers from individuals and business entities who, but for a review of their credit reports obtained through the NMLS, have demonstrated their competency and character by fulfilling the education, testing and character-related requirements imposed upon license applicants by the RMLA; and

IT FURTHER APPEARING that pursuant to section 74 of P.L. 2009, c. 53, the Commissioner is authorized to take any anticipatory administrative action in advance of July 31, 2010 as shall be necessary for the implementation of the RMLA,

NOW THEREFORE, it is on this 9th day of April, 2010 ORDERED that:

1. Transitioning individuals who otherwise qualify for licensure as an MLO or QIL and who, by the respective dates established in Order No. A10-102, have submitted a complete application through the NMLS but for the authorization for the NMLS to obtain a credit report may be conditionally approved for an initial RMLA license to be effective through December 31, 2010, on which date all initial RMLA licenses will expire.
2. Individuals not licensed or registered under the LLA who submit a complete application through the NMLS but for the authorization for the NMLS to obtain a credit report and who otherwise qualify for licensure as a QIL or MLO may be conditionally approved for an initial RMLA license that will be effective through December 31, 2010.
3. Business entities and branch offices seeking licensure under the RMLA, including those transitioning from licensure under the LLA, that qualify for such licensure in all respects other than that their designated QIL was conditionally approved for an initial RMLA license because of the unavailability of the NMLS credit report authorization function, may be issued an initial, conditional approval for a RMLA license that will be effective through December 31, 2010.
4. Individuals who file new applications for initial licensure as a MLO or a QIL after the NMLS credit report authorization function is operational shall be required to submit a complete application that includes the credit report request/authorization in order for their

application to be considered by the Department and for any action to be taken on such an application.

5. All business entities and branch offices that file license applications after the NMLS credit report authorization function is operational but before December 31, 2010, whose QIL is fully qualified for licensure and which otherwise fully qualify for licensure may be issued a RMLA license with a December 31, 2010 expiration date.

6. All applicants who receive a conditional RMLA license shall submit the required NMLS credit report authorization subsequent to the date on which the function of the NMLS that will enable them to do so becomes operational and no later than a date to be specified by further order of the Commissioner.

7. Nothing contained herein shall be deemed a waiver of the rights and authority of the Commissioner to enforce the provisions of the LLA and the RMLA and to withdraw, suspend or revoke any conditional approval conferred hereunder for a failure to comply with the terms of this Order or any future order of the Commissioner or on such other grounds as may be applicable and appropriate.

8. Business entities currently licensed under the LLA are hereby directed to disseminate this Order to their licensed individuals and registered mortgage solicitors immediately.

/s/ Thomas B. Considine
Thomas B. Considine
Commissioner