

TITLE 3

DEPARTMENT OF BANKING

CHAPTER 1

GENERAL PROVISIONS

Authority

N.J.S.A. 17:1-8; 17:1-8.1; 17:1B-2; 17:2A-1 et seq.; 17:9-41; 17:9A-1; 17:9A-11D et seq.; 17:9A-24(a); 17:9A-24(b); 17:9A-25.2; 17:9A-316; 17:11A-54(a); 17:11B-5; 17:11B-13; 17:12B-8; 17:12B-20 et seq.; 17:12B-48(21); 17:12B-226; 17:16F-11; 17:16I-16; 17:16L-2; and 17:16N-3.

Source and Effective Date

R.1996 d.168, effective March 6, 1996.
See: 28 N.J.R. 3(a), 28 N.J.R. 1830(a).

Executive Order No. 66(1978) Expiration Date

Chapter 1, General Provisions, expires on March 6, 2001.

Chapter Historical Note

Subchapter 2, Procedural Rules, was filed as R.1970 d.97, effective August 13, 1970. See: 2 N.J.R. 70(a). Subchapter 2 was subsequently amended by R.1973 d.191, effective July 16, 1973. See: 5 N.J.R. 258(b); R.1973 d.217, effective August 9, 1973. See: 5 N.J.R. 76(c), 5 N.J.R. 298(a); R.1973 d.281, effective September 26, 1973. See: 5 N.J.R. 257(b), 5 N.J.R. 364(d); R.1973 d.342, effective December 6, 1973. See: 5 N.J.R. 364(b), 6 N.J.R. 3(a); R.1973 d.366, effective December 21, 1973. See: 6 N.J.R. 50(b); R.1974 d.132, effective May 31, 1974. See: 6 N.J.R. 255(b); R.1974 d.140, effective June 11, 1974. See: 6 N.J.R. 255(b); R.1974 d.247, effective September 6, 1974. See: 6 N.J.R. 387(b); R.1974 d.298, effective October 29, 1974. See: 6 N.J.R. 463(a); R.1975 d.21, effective January 30, 1975. See: 7 N.J.R. 94(b); R.1975 d.155, effective June 5, 1975. See: 7 N.J.R. 191(a), 7 N.J.R. 292(a); R.1976 d.83, effective May 1, 1976. See: 8 N.J.R. 5(c), 8 N.J.R. 164(a); R.1976 d.240, effective July 29, 1976. See: 8 N.J.R. 412(a); R.1976 d.244, effective August 3, 1976. See: 8 N.J.R. 413(a); R.1976 d.305, effective October 1, 1976. See: 8 N.J.R. 411(b), 8 N.J.R. 499(a); R.1976 d.312, effective October 8, 1976. See: 8 N.J.R. 370(b), 8 N.J.R. 499(b); R.1976 d.404, effective December 15, 1976. See: 9 N.J.R. 4(a); R.1977 d.462, effective December 12, 1977. See: 9 N.J.R. 451(c), 10 N.J.R. 2(b); R.1978 d.71, effective February 27, 1978. See: 10 N.J.R. 2(a), 10 N.J.R. 137(a); R.1978 d.204, effective June 23, 1978. See: 10 N.J.R. 315(a); R.1979 d.190, effective May 11, 1979. See: 11 N.J.R. 270(c); R.1979 d.290, effective July 27, 1979. See: 11 N.J.R. 429(b); R.1980 d.151, effective April 10, 1980. See: 12 N.J.R. 249(b); and R.1981 d.258, effective July 9, 1981. See: 13 N.J.R. 182(a), 13 N.J.R. 382(b).

Subchapter 3, Mortgage Loans in Disaster Areas, was adopted by the Commissioner of Banking pursuant to authority delegated at N.J.S.A. 17:2A-1 et seq. and was filed and became effective prior to September 1, 1969.

Subchapter 4, Governmental Unit Deposit Protection, was adopted by the Commissioner of Banking pursuant to authority delegated at N.J.S.A. 17:9-41 and was filed and became effective January 15, 1971 as R.1971 d.9. See: 2 N.J.R. 97(d), 3 N.J.R. 19(c).

Subchapter 5, Mortgage Applicant's Birth Control Practices, was adopted by the Commissioner of Banking pursuant to authority delegated at N.J.S.A. 17:1-8.1, 17:1B-2 and 17:11A-54(a), and was filed and became effective June 21, 1973, as R.1973 d.166. See: 5 N.J.R. 136(a), 5 N.J.R. 216(b). Pursuant to Executive Order No. 66(1978), Subchap-

ter 5, Mortgage Applicant's Birth Control Practices, expired on April 4, 1996.

Subchapter 6, Fees, was adopted pursuant to authority of N.J.S.A. 17:1-8 and was filed and became effective August 9, 1974, as R.1974 d.221. See: 6 N.J.R. 254(c), 6 N.J.R. 342(a). Revisions to Subchapter 6 were filed and became effective December 15, 1977, as R.1977 d.469. See: 10 N.J.R. 3(a).

Subchapter 7, Miscellaneous Fees, was adopted pursuant to authority of N.J.S.A. 17:1-8 and was filed and became effective May 14, 1975, as R.1975 d.120. See: 7 N.J.R. 126(c), 7 N.J.R. 247(c).

Subchapter 9, Home Mortgage Disclosure, was adopted pursuant to authority of N.J.S.A. 17:16F-11 and was filed and became effective August 22, 1977, as R.1977 d.308. See: 9 N.J.R. 303(c), 9 N.J.R. 405(c). Pursuant to Executive Order No. 66(1978), Subchapter 9 was readopted effective August 26, 1983 as R.1983 d.379. See: 15 N.J.R. 1146(a), 15 N.J.R. 1575(a).

Subchapter 10, Restrictions on Real Property Transactions, was filed and became effective February 21, 1978 as R.1978 d.55. See: 9 N.J.R. 404(c), 10 N.J.R. 92(c). Amendments to Subchapter 10 were filed and became effective February 8, 1979 as R.1979 d.55. See: 11 N.J.R. 3(c), 11 N.J.R. 117(d). Further amendments were filed and became effective August 2, 1982 as R.1982 d.242. See: 14 N.J.R. 490(a), 14 N.J.R. 834(a). Subchapter 10 was readopted and amended effective March 19, 1984 by R.1984 d.63. See: 16 N.J.R. 2(a), 16 N.J.R. 520(a).

Subchapter 11, Restrictions on Loans Involving Affiliated Persons was adopted pursuant to authority of N.J.S.A. 17:1-8.1 and was filed and became effective December 15, 1977, as R.1977 d.471. See: 10 N.J.R. 404(b), 10 N.J.R. 3(c). Amendments were filed and became effective May 5, 1978, as R.1978 d.144. See: 10 N.J.R. 135(c), 10 N.J.R. 219(a).

Subchapter 12, Multiple Party Deposit Accounts, became effective November 1, 1980 as R.1980 d.480. See: 12 N.J.R. 378(c), 12 N.J.R. 686(d). Pursuant to Executive Order No. 66(1978), Subchapter 12 was readopted effective January 6, 1986 as R.1985 d.660. See: 17 N.J.R. 2488(a), 18 N.J.R. 77(b).

Subchapter 13, Insurance Activities, was adopted as R.1983 d.561 effective December 5, 1983. See: 15 N.J.R. 820(a), 15 N.J.R. 2033(a).

Subchapter 14, Revolving Credit Equity Loans, was adopted as R.1983 d.378, effective September 19, 1983. See: 15 N.J.R. 1147(a), 15 N.J.R. 1575(b).

Subchapter 15, Availability of Funds, was adopted as R.1986 d.7 effective March 17, 1986. See: 18 N.J.R. 13(a), 18 N.J.R. 553(a).

Subchapter 16 was adopted as R.1989 d.191, effective April 17, 1989 (operative July 16, 1989). See: 20 N.J.R. 1021(b), 21 N.J.R. 981(c). The Subchapter 16 heading was revised to "Mortgage Loans, Fees and Obligations" by R.1992 d.149, effective April 6, 1992. See: 23 N.J.R. 2613(b), 24 N.J.R. 3(a), 24 N.J.R. 1380(a).

Subchapter 17, Automated Teller Machines (ATM), was adopted pursuant to authority of N.J.S.A. 17:1-8 and 8.1; 17:9A-1, 20D and 3 and 17:12B-8, 37.1 and 226, by R.1991 d.244, effective May 6, 1991. See: 23 N.J.R. 642(a), 23 N.J.R. 1408(b).

Subchapter 18, Foreign Banks and Associations; Registration Service Facilities, was adopted pursuant to authority of N.J.S.A. 17:1-8.1 and P.L. 1991, c.74, by R.1991 d.347, effective July 1, 1991. See: 23 N.J.R. 1233(a), 23 N.J.R. 2029(a).

Subchapter 19, New Jersey Consumer Checking Accounts, was adopted pursuant to authority of N.J.S.A. 17:16N-1, specifically

17:16N-3, by R.1992 d.303, effective August 3, 1992. See: 24 N.J.R. 1667(a), 24 N.J.R. 2710(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, General Provisions, was readopted as R.1991 d.48, effective January 4, 1991. See: 22 N.J.R. 3425(a), 23 N.J.R. 294(b). The expiration date for Chapter 1 was extended by gubernatorial directive from January 4, 1996 to April 4, 1996. See: 28 N.J.R. 815(a).

Pursuant to Executive Order No. 66(1978), Chapter 1 was readopted as R.1996 d.168, effective March 6, 1996. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. INTEREST AND USURY

3:1-1.1 Interest rates

(a) The maximum rate of interest to be charged, taken or received upon a loan of any money, wares, merchandise goods and chattels, made on or after October 20, 1981, shall be six percent per annum, or shall be 16 percent per annum when there is a written contract specifying a rate of interest, except as herein or otherwise provided by law. Such interest shall be calculated in accordance with N.J.S.A. 31:1-1, as amended.

(b) The maximum rate of interest to be charged on loans secured by a first lien on real property on which there is erected or to be erected a structure containing one, two, three, four, five or six dwelling units, a portion of which structure may be used for nonresidential purposes, consummated on or after July 1, 1988, shall be at least six percent per annum but not more than the Monthly Index of Long Term United States Government Bond Yields, compiled by the Board of Governors of the Federal Reserve System and as published by said Board of Governors in the monthly Federal Reserve Bulletin, for the second preceding calendar month plus an additional 3.5 percent per annum rounded off to the nearest quarter of one percent per annum. Such interest shall be calculated in accordance with N.J.S.A. 31:1-1, as amended. Any provision in a mortgage commitment contracted prior to the effective date of this regulation providing for an increase in interest rates to be charged based on the highest lawful interest rate shall be null and void.

(c) Contracts for the following classes or types of loans may lawfully provide for any rate of interest which the parties agree upon, and interest at any such rate may lawfully be taken:

1. Loans in the amounts of \$50,000 or more, except loans where the security given is a first lien on real property on which there is erected or to be erected a structure containing one, two, three, four, five or six dwelling units, a portion of which structure may be used for nonresidential purposes. The rate of interest stated in such contract upon the origination of such loans may be taken notwithstanding that payments thereon reduce the amount outstanding to less than \$50,000;

2. Loans or advances of credit made by savings and loans associations, banking institutions or any Department of Housing and Urban Affairs or Federal Housing Administration approved mortgagees which are subsequently purchased, in whole or in part, by the Federal Housing Administration, Veterans Administration, Farmers Home

Administration, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, and any successor thereof or by any organization authorized by the Emergency Home Finance Act of 1970 to purchase such loans or by any State or Federal governmental or quasi-governmental organizations.

3. If such loan is not purchased within 395 days from the date the loan instruments are executed, the maximum rate of interest which may be charged on such loan shall not be in excess of that authorized by the commissioner under the provisions of this section and such rate of interest, if in excess of that rate, shall be reduced to the rate in effect at the date of the execution of the loan instruments. No such reduction shall change the maturity date of the loan without the written consent of the borrower nor shall such reduction affect the lien of the mortgage which secures the loan.

(d) Nothing herein shall be construed as being applicable to loans which are subject to the Federal preemption of State usury laws contained in the Depository Institutions Deregulation and Monetary Control Act of 1980, H.R. 4986, Title V.

(e) The rates established herein shall be effective at 12:01 A.M., October 20, 1981, and shall remain in force until such time as this regulation is rescinded or until said rate or rates are revised by a subsequent regulation.

As amended, R.1973 d.191, eff. July 16, 1973.
See: 5 N.J.R. 258(b).
As amended, R.1973 d.366, eff. December 21, 1973.
See: 6 N.J.R. 50(b).
As amended, R.1974 d.132, eff. May 31, 1974.
See: 6 N.J.R. 255(b).
As amended, R.1974 d.140, eff. June 11, 1974.
See: 6 N.J.R. 255(b).
As amended, R.1974 d.247, eff. September 6, 1974.
See: 6 N.J.R. 387(b).
As amended, R.1975 d.21, eff. January 30, 1975.
See: 7 N.J.R. 94(b).
As amended, R.1976 d.240, eff. July 29, 1976.
See: 8 N.J.R. 412(a).
As amended, R.1976 d.404, eff. December 15, 1976.
See: 9 N.J.R. 4(a).
As amended, R.1978 d.204, eff. June 23, 1978.
See: 10 N.J.R. 315(a).
As amended, R.1979 d.190, eff. May 11, 1979.
See: 11 N.J.R. 270(c).
As amended, R.1980 d.151, eff. April 10, 1980.
See: 12 N.J.R. 249(b).
As amended on an emergency basis, R.1981 d.429, eff. October 20, 1981, exp. December 21, 1981. See: 13 N.J.R. 753(b). Readopted, R.1981 d.511, eff. December 22, 1981. See: 13 N.J.R. 753(b), 14 N.J.R. 101(c).
(a): "October 20, 1981" was "April 10, 1980"; "Six" percent was "8" percent; and "or shall be . . . rate of interest" added.
(b): "October 20, 1981" was "April 10, 1980"; "17" percent was "14½" percent.
(e): "October 20, 1981" was "April 10, 1980".
Amended by R.1988 d.282, effective June 20, 1988.
See: 19 N.J.R. 2089(a), 20 N.J.R. 1343(b).
Change "17" to "six" percent per annum. Added text to (b) "but not more . . . 1 percent per annum".

Case Notes

Commissioner of Banking may, by regulation, establish the rate of interest on loans secured by a first lien on property. In re Stepanski, 20 B.R. 399 (Bankr.N.J.1982).

Banking statutes reflect basic understanding that "interest" continues to be defined as specific percentage rates, rather than discrete charges, such as late fees, unrelated to borrowing money. Sherman v. Citibank (South Dakota), N.A., 143 N.J. 35, 668 A.2d 1036 (1995), petition for certiorari filed.

Mortgage interest rate computation rule cited; purchasers entitled to recover benefit of bargain damages where vendors breached executory contract to convey real property. Donovan v. Bachstadt, 91 N.J. 434, 453 A.2d 160 (1982).

3:1-1.2 Interest rates; other loans

(a) Notwithstanding any provisions of N.J.S.A. 31:1-1 or N.J.A.C. 3:1-1.1 and except as otherwise provided by law, any person may charge a rate of interest on any loan which rate does not exceed one percent in excess of the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank of New York on the date of the loan, at any time when that discount rate exceeds seven percent. Nothing in this subsection shall authorize any person to make any loan which is not authorized by law, nor shall anything in this subsection apply to loans secured by a first lien on real estate on which there is erected or to be erected a structure containing one, two, three, four, five or six dwelling units, a portion of which structure may also be used for non-residential purposes. Additionally, nothing in this subsection (a) shall be applicable to the exceptions contained in N.J.S.A. 31:1-1(e) and N.J.A.C. 3:1-1.1(c).

(b) Where in any law a rate of interest applicable to loans regulated by this section is referred to as that established by N.J.S.A. 31:1-1, the rate allowable shall be as established herein.

(c) The rate established herein shall be effective for loans made on or after 12:01 A.M., July 27, 1979.

R.1979 d.290, eff. July 27, 1979.
See: 11 N.J.R. 429(b).
Readoption: R.1984 d.397, filed August 16, 1984.
See: 16 N.J.R. 1642(a), 16 N.J.R. 2356(a).

Case Notes

Banking statutes reflect basic understanding that "interest" continues to be defined as specific percentage rates, rather than discrete charges, such as late fees, unrelated to borrowing money. Sherman v. Citibank (South Dakota), N.A., 143 N.J. 35, 668 A.2d 1036 (1995), petition for certiorari filed.

SUBCHAPTER 2. PROCEDURAL RULES

3:1-2.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

3:1-18.4 Registration fee

(a) A foreign financial institution shall submit a registration fee of \$500.00 to the Department with its request to become registered, except if the initial registration of the service facility has occurred in the second year of the biennial period, the registration fee shall be \$250.00.

(b) After becoming registered, a foreign financial institution which intends to continue operating a service facility in this State shall submit to the Department biennially a registration renewal fee of \$500.00.

(c) The first biennial period shall end August 31, 1992.

3:1-18.5 Notification of registration or deficiency by the Department

(a) The Department shall, within 30 days of receipt of the materials specified in N.J.A.C. 3:1-18.3, notify the foreign financial institution that the service facility is registered by the Department or, in the event the request for registration is incomplete, the Department shall, within 30 days of receipt of the incomplete request, notify the foreign financial institution of the nature of the deficiency.

(b) The registration of the service facility shall not become effective until the foreign financial institution has received notification from the Department, except that, if the foreign financial institution has not received notification of registration from the Department within 30 days of the Department's receipt of all of the materials specified in N.J.A.C. 3:1-18.3, or notification of deficiency within 30 days of the Department's receipt of an incomplete request, such request for registration shall be deemed to have been granted by the Department.

(c) Nothing in this rule shall prohibit a foreign financial institution from purchasing or leasing office space in this State for use as a service facility, or from preparing such office space for use as a service facility prior to notification of registration by the Department.

(d) A foreign financial institution may register more than one service facility, but shall submit a separate request for registration, with the required fee, for each service facility and shall receive notification of that registration prior to engaging in back office operations at that service facility.

3:1-18.6 Permitted activities at service facilities

(a) A foreign bank or foreign association may conduct only back office operations at a service facility.

(b) Back office operations conducted by foreign financial institutions in this State may be conducted only at service facilities.

3:1-18.7 Examination of service facilities

(a) A service facility shall be subject to examination by the Department to determine whether the foreign financial institution is operating the service facility in accordance with State law.

(b) The cost for the examination of a service facility shall be paid by the foreign financial institution and shall be billed at the Department's per diem rate for examinations of depository institutions (see: N.J.A.C. 3:1-6.6).

3:1-18.8 Hearing to close service facilities

The Commissioner may, upon notice and a hearing, order a foreign financial institution to close a service facility operated in violation of law. Such hearing shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1.

SUBCHAPTER 19. NEW JERSEY CONSUMER CHECKING ACCOUNTS
3:1-19.1 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Account agreement" means the agreement governing a New Jersey Consumer Checking Account.

"ATM" means automated teller machine.

"Check" means any check as defined in N.J.S.A. 12A:3-104, share draft, negotiable order of withdrawal, or similar means of making payment or transfers to third parties, the customer, or others, which is drawn on an account in a depository institution and is payable on demand. It shall not include debits to the account for maintenance charges, fees, printing checks, pre-arranged automatic withdrawals, and other similar services.

"Consumer" means a natural person who resides in this State, except that a credit union may require that the natural person be a member of the credit union in accordance with the credit union's rules of membership.

"Customer" means a consumer who has a New Jersey Consumer Checking Account.

"New Jersey Consumer Checking Account" or "account" means a deposit account established pursuant to N.J.S.A. 17:16N-3 and with respect to which the account holder is permitted to make payments to third parties or others by check.

“Non-conforming account” means a New Jersey Consumer Checking Account which does not contain the characteristics set forth in N.J.A.C. 3:1-19.2 but has been individually approved by the Commissioner pursuant to N.J.A.C. 3:1-19.3.

3:1-19.2 Features of New Jersey Consumer Checking Accounts

(a) A New Jersey Consumer Checking Account which is subject to subsection c of N.J.S.A. 17:16N-3 shall have all of the following features:

1. The account agreement shall not require more than \$50.00 as an initial deposit amount;
2. The account agreement shall not require the customer to maintain a minimum balance of more than \$1.00 in order to maintain the account;
3. The account agreement shall allow the customer to make at least eight withdrawals by check per periodic cycle from the account without charge. For the purpose of this paragraph, the withdrawal shall be deemed made when paid by the depository institution. This minimum number of withdrawals is based on the assumption that the periodic cycle is approximately 30 days. If the periodic cycle is substantially longer or shorter than 30 days, the minimum number shall be adjusted accordingly;
4. The account agreement shall not authorize a charge exceeding \$0.50 for each transaction in excess of the number required by (a)3 above;
5. The account agreement shall allow a customer, of a depository institution which permits withdrawals to be made from checking accounts by means of withdrawal slips, to make unlimited withdrawals by withdrawal slip from the account without charge;
6. The account agreement shall allow a customer to make unlimited deposits into the account without charge;

7. The account agreement shall not authorize a charge for maintaining the account which exceeds \$3.00 per periodic cycle. Also, the maximum amount of the charge is based on the assumption that the periodic cycle is approximately 30 days. If the periodic cycle is substantially longer or shorter than 30 days, the maximum amount shall be adjusted accordingly;

8. The account agreement shall not authorize a charge to the customer for printing checks for the account which is more than its charge to its regular checking account holders for that service; and

9. The account agreement may provide that the depository institution may charge customers for ATM usage and for banking services not specified in this chapter if, and to the same degree that, it charges its regular checking account holders for that usage and services.

3:1-19.3 Non-conforming accounts

(a) A depository institution may apply to the Commissioner for approval of any account, which does not conform to the criteria set forth in N.J.A.C. 3:1-19.2, as a New Jersey Consumer Checking Account.

(b) Each application for approval of a non-conforming account shall provide:

1. The initial deposit amount necessary to open the account;
2. The minimum balance required to maintain the account;
3. The maximum number of checks that may be written per month without charge;
4. The maximum number of non-check withdrawals per month without charge;
5. The maximum maintenance charge per month;
6. The maximum number of deposits which may be made per month without charge;

7. The maximum per transaction charge per month for transactions in excess of those specified in (b)3, 4, and 6 above;

8. The length of the periodic cycle of the account; and

9. Any other fees which will be charged the customer.

(c) In deciding whether to approve such an account, the Commissioner shall consider whether the account meets the stated purpose of the Act to make New Jersey Consumer Checking Accounts available to consumers at low cost, and has substantially equivalent characteristics to the account in N.J.A.C. 3:1-19.2.

(d) The Commissioner shall issue a decision on an application for approval of non-conforming accounts within 30 days of receipt of the application, although the Commissioner may extend the time for issuing such decision by notifying the depository institution of such extension within the 30-day period. If neither a decision or a notice of extension has been issued within that time, the application shall be deemed approved.

3:1-19.4 Closing New Jersey Consumer Checking Accounts

(a) A depository institution may refuse to open or may close a New Jersey Consumer Checking Account for the following reasons:

1. For fraudulent activity or overdrafts, or to protect the customers or employees of the depository institution from physical harm, under the same standards which it applies to holders of its regular checking accounts:

2. If the consumer has a regular checking account or another New Jersey Consumer Checking Account in that depository institution or in any other depository institution;

3. If the consumer makes an intentional material misrepresentation to the depository institution in connection with the account; or

4. If the fees and other revenue obtained from the account are less than the cost to the depository institution to provide the account, provided that the depository institution complies with the requirements of (b) through (d) below.

(b) No depository institution is required to offer a New Jersey Consumer Checking Account at a cost to a customer which is less than the cost to the depository institution to provide the account. In computing the cost of the account, the depository institution shall deduct the investment value of deposits in the account.

(c) A depository institution which determines that the revenue which it obtains through fees which it charges to the account holder is less than its cost for offering a New Jersey Consumer Checking Account, and which intends to discon-

tinue offering the account on that basis, shall notify the Department 30 days prior to such discontinuance, and shall submit with such notice the data supporting its determination regarding cost.

(d) A depository institution which discontinues an account pursuant to (c) above shall not thereby be relieved from its statutory obligation to provide a New Jersey Consumer Checking Account to consumers unless it provides data supporting a conclusion by the Commissioner that the depository institution would lose money on any account which would satisfy the requirements of P.L. 1991, c.210.

Amended by R.1996 d.168, effective April 1, 1996.

See: 28 N.J.R. 3(a), 28 N.J.R. 1830(a).

In (a)1 added physical harm.

3:1-19.5 Consumer information requirements

(a) A depository institution which is required by P.L. 1991, c.210 to offer a New Jersey Consumer Checking Account shall provide reasonable in-person information and assistance to customers regarding New Jersey Consumer Checking Accounts, checking accounts generally, and related financial services.

(b) A depository institution which is required by P.L. 1991, c.210 to offer a New Jersey Consumer Checking Account shall post in a conspicuous place in the lobby of each office of the depository institution a sign and make material available in the public area which indicates that the office offers New Jersey Consumer Checking Accounts. The notice and material shall explain the material features and limitations of such an account. A depository institution may identify its New Jersey Consumer Checking account by any name, provided that it also indicates conspicuously that the account is a "New Jersey Consumer Checking Account."

APPENDIX A

JOINT ACCOUNTS, P.O.D. ACCOUNTS, TRUST ACCOUNTS

The following statements are presented as model forms only: the language is not mandatory. The language used must accurately reflect the intent of the Act and provide the information required by N.J.A.C. 3:1-12.4.

Joint Accounts

This is a joint account. Ownership of this account cannot be changed by will.

Each party to this account has a present right to payment from this account. Each party owns his/her net contribution to the account. In the absence of proof of net contribution, and unless the parties have specifically otherwise agreed, each party will own an equal share of this account. The financial institution may make payment from this account, including payment of the entire account balance, (i) pursuant to any statutory or common law right of set off, levy,

attachment or other valid legal process or court order, relating to the interest of any one or more of the parties; and (ii) on request to a trustee in bankruptcy, receiver in any state or Federal insolvency proceeding, or other duly authorized insolvency representative of any one or more of the parties. The financial institution is not required to determine net contributions.

Upon the death of a party to this account:

(a) Where there is only one surviving party, the entire account will belong to the survivor;

(b) Where there are two or more surviving parties each party will continue to own his/her proportionate share. The portion of the account owned by the deceased party will be shared equally by the survivors.

P.O.D. Accounts

This account is a P.O.D. account. Ownership of this account cannot be changed by will.

This account belongs to the party/parties to this account during their lifetime and belongs to the payee/payees upon the death of all parties. The payee/payees have no present right of withdrawal:

(a) Where there are two or more parties, each party has right to payment from the account. Each party owns his/her net contribution. In the absence of proof of net contribution, and unless the parties have specifically otherwise agreed, each party will own an equal share of the account during their lifetimes. Upon the death of a party, the surviving party/parties will continue to own his/her proportionate share of the account. The share owned by the deceased party will be shared equally by the surviving party/parties. Upon the death of the sole surviving party, the account will belong to the P.O.D. payee/payees;

(b) Where there are two or more P.O.D. payee/payees, the account will belong to the payee/payees who survive all parties. Unless otherwise specifically stated in the account by the party/parties, each surviving P.O.D. payee will own an equal share of the account. Unless specifically stated in the account by the party/parties, upon the death of a surviving P.O.D. payee, the remaining P.O.D. payee/payees will not own any portion of the deceased payee's share of the account.

(c) The financial institution may make payment from this account, including payment of the entire account balance, (i) pursuant to any statutory or common law right of set off, levy, attachment or other valid legal process or court order, relating to the interest of any one or more of the parties; and (ii) on request to a trustee in bankruptcy, receiver in any state or Federal insolvency proceeding, or other duly authorized insolvency representative of any one or more of the parties. The financial institution is not required to determine net contributions.

Trust Accounts

This is a trust account. Ownership of this account cannot be changed by will.

This account belongs to the trustee/trustees during their lifetime of the trustee/trustees and belongs to the beneficiary/beneficiaries upon the death of all trustees.

(a) Where there are two or more trustees, each trustee has a right to payment from the account. Each trustee owns his/her net contribution. In the absence of proof of net contribution and unless the trustees have specifically otherwise agreed, each trustee will own an equal share of the account during his/her lifetime. Upon the death of a trustee, the surviving trustee/trustees will continue to own his/her proportionate share of the account. The share owned by the deceased trustee will be shared equally by the surviving trustee/trustees. Upon the death of the sole surviving trustee, the account will belong to the beneficiary/beneficiaries;

(b) Where there are two or more beneficiaries, the account belongs to the beneficiary/beneficiaries who survive all the trustees. Unless otherwise specifically stated in the account by the trustee/trustees, each surviving beneficiary will own an equal share of the account. Unless specifically stated, upon the death of a surviving beneficiary, the remaining beneficiary/beneficiaries will not own any portion of the deceased beneficiary's share of the account.

(c) The financial institution may make payment from this account, including payment of the entire account balance, (i) pursuant to any statutory or common law right of set off, levy, attachment or other valid legal process or court order, relating to the interest of any one or more of the parties; and (ii) on request to a trustee in bankruptcy, receiver in any state or Federal insolvency proceeding, or other duly authorized insolvency representative of any one or more of the parties. The financial institution is not required to determine net contributions.

Amended by R.1996 d.241, effective May 20, 1996.
See: 28 N.J.R. 1440(a), 28 N.J.R. 2543(a).