

TITLE 3

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF BANKING

CHAPTER 1

GENERAL PROVISIONS

Authority

N.J.S.A. 17:1-8, 17:1-8.1, 17:2A-1 et seq., 17:9-41, 17:9A-1 et seq., 17:9A-9, 17:9A-24a, 17:9A-25.2, 17:9A-316, 17:11C-49, 17:12B-1 et seq., 17:16F-11, 17:16I-1 et seq., 17:16L-1 et seq. and 17:16N-1 et seq.

Source and Effective Date

R.2006 d.246, effective June 8, 2006.
See: 38 N.J.R. 1493(a), 38 N.J.R. 2795(a).

Chapter Expiration Date

Chapter 1, General Provisions, expires on June 8, 2011.

Chapter Historical Note

Subchapter 3, Mortgage Loans in Disaster Areas, was adopted and became effective prior to September 1, 1969.

Subchapter 2, Procedural Rules, was adopted as R.1970 d.97, effective August 13, 1970. See: 2 N.J.R. 70(a).

Subchapter 4, Governmental Unit Deposit Protection, was adopted as R.1971 d.9, effective January 15, 1971. See: 2 N.J.R. 97(d), 3 N.J.R. 19(c).

Subchapter 5, Mortgage Applicant's Birth Control Practices, was adopted by R.1973 d.166, effective June 21, 1973. See: 5 N.J.R. 136(a), 5 N.J.R. 216(b).

Subchapter 6, Fees, was adopted as new rules by R.1974 d.221, effective August 9, 1974. See: 6 N.J.R. 254(c), 6 N.J.R. 342(a).

Subchapter 7, Miscellaneous Fees, was adopted as new rules by R.1975 d.120, effective May 14, 1975. See: 7 N.J.R. 126(c), 7 N.J.R. 247(c).

Subchapter 9, Home Mortgage Disclosure, was adopted as new rules by R.1977 d.308, effective August 22, 1977. See: 9 N.J.R. 303(c), 9 N.J.R. 405(c).

Subchapter 11, Restrictions on Loans Involving Affiliated Persons, was adopted as new rules by R.1977 d.471, effective December 15, 1977. See: 9 N.J.R. 404(b), 10 N.J.R. 3(c).

Subchapter 10, Restrictions on Real Property Transactions, was adopted as new rules by R.1978 d.55, effective February 21, 1978. See: 9 N.J.R. 404(c), 10 N.J.R. 92(c).

Subchapter 12, Multiple Party Deposit Accounts, was adopted as new rules by R.1980 d.480, effective November 1, 1980. See: 12 N.J.R. 378(c), 12 N.J.R. 686(d).

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).

Pursuant to Executive Order No. 66(1978), Subchapter 9, Home Mortgage Disclosure, 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 13, Insurance Activities, was adopted as R.1983 d.566, effective December 5, 1983. See: 15 N.J.R. 820(a), 15 N.J.R. 2033(a).

Pursuant to Executive Order No. 66(1978), Subchapter 10, Restrictions on Real Property Transactions, was readopted by R.1984 d.63, effective March 19, 1984. See: 16 N.J.R. 2(a), 16 N.J.R. 520(a).

Pursuant to Executive Order No. 66(1978), Subchapter 12, Multiple Party Deposit Accounts, was readopted by R.1985 d.660, effective January 6, 1986. See: 17 N.J.R. 2488(a), 18 N.J.R. 77(b).

Subchapter 15, Availability of Funds, was adopted as R.1986 d.73, 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).

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).

Subchapter 17, Automated Teller Machines (ATM), was adopted 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 of Service Facilities, was adopted as 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 as R.1992 d.303, effective August 3, 1992. See: 24 N.J.R. 1667(a), 24 N.J.R. 2710(a).

The Executive Order No. 66(1978) expiration date for Chapter 1, General Provisions, 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, General Provisions, was readopted as R.1996 d.168, effective March 6, 1996. See: 28 N.J.R. 3(a), 28 N.J.R. 1830(a).

Pursuant to Executive Order No. 66(1978), Subchapter 5, Mortgage Applicant's Birth Control Practices, expired on April 4, 1996.

Subchapter 20, Requests for Disclosure of Social Security Numbers, was adopted as new rules by R.1997 d.185, effective May 5, 1997. See: 29 N.J.R. 284(a), 29 N.J.R. 1691(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, General Provisions, was readopted as R.2001 d.112, effective March 6, 2001, and Subchapter 8, Credit or Loan Applications, was repealed by R.2001 d.112, effective April 2, 2001. See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Subchapter 7, Miscellaneous Fees, was renamed Miscellaneous by R.2006 d.233, effective June 19, 2006. See: 38 N.J.R. 5(a), 38 N.J.R. 2671(a).

Chapter 1, General Provisions, was readopted by R.2006 d.246, effective June 8, 2006. See: Source and Effective Date. See, also, section annotations.

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3:1-6.5 Annual review

The fees assessed by this subchapter shall be reviewed at least annually and if necessary shall be increased or decreased in accordance with the services performed by the Department.

Amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Substituted "subchapter" for "regulation".

3:1-6.6 Examination charge and per diem rate

(a) The individual per hour per person examination charge for an examination of a person not assessed under N.J.A.C. 3:5 shall be \$42.00, plus \$15.00 per day for travel expenses for in-State travel. This examination charge is also referred to as the per diem rate. The fee for out-of-State travel shall approximate the cost of this travel.

(b) The Department shall bill examination charges in increments of one-half hour.

New Rule, R.1991 d.195, effective April 5, 1991.

See: 23 N.J.R. 245(a), 23 N.J.R. 1125(a).

Amended by R.1991 d.350, effective July 1, 1991.

See: 23 N.J.R. 1073(b), 23 N.J.R. 2028(a).

Increased examination fees on trust companies and trust departments from \$300.00 to \$325.00.

Amended by R.1992 d.250, effective June 15, 1992.

See: 24 N.J.R. 1420(a), 24 N.J.R. 2242(a).

Amended by R.1996 d.384, effective August 5, 1996.

See: 28 N.J.R. 2106(a), 28 N.J.R. 3780(a).

Changed from per diem to per hour charges.

Amended by R.1996 d.483, effective October 7, 1996.

See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).

Amended by R.2006 d.233, effective June 19, 2006.

See: 38 N.J.R. 5(a), 38 N.J.R. 2671(a).

Section was "Examination charge". Deleted former (a), recodified (b) and (c) as (a) and (b); in (a), substituted "a licensee, credit union, trust company, out-of-State bank, out-of-State association or trust department of a bank, savings bank or savings and loan association, or any person not specified in this section" with "a person not assessed under N.J.A.C. 3:5" and inserted the second sentence; and substituted "examination charges" with "institutions in (a) and (b) above" in (b).

Cross References

Examination charges for bank holding companies, see N.J.A.C. 3:13-3.1.

3:1-6.7 Failure to pay fees or examination charges

(a) If a person pays an examination charge, application fee, or any other fee or charge, other than an assessment made under N.J.A.C. 3:5, with a check which is returned for insufficient funds or is not paid for any other reason, the Department shall advise the person by letter. The person shall have 20 days from the date of such letter to provide the Department with a certified or cashier's check payable to the Treasurer, State of New Jersey for the amount of the dishonored check plus \$10.00. If the Department does not receive a certified or cashier's check within 20 days of the date of this letter, the Department shall suspend the license of the person or the authority of the person to conduct business in this State until payment by certified or cashier's check is received. N.J.A.C. 3:1-7.6(b) shall apply to all returned

checks submitted in payment of assessments imposed pursuant to N.J.A.C. 3:5.

(b) If a person fails to pay an examination charge within 30 days after the bill is sent, the Department shall send a second billing. The person shall have 20 days from the date of such letter to provide the Department with payment of the fee. If the person fails to provide such payment within 20 days, the Department shall suspend the license of the person or the authority of the person to conduct business in this State until payment is received.

(c) Prior to a suspension set forth in (a) or (b) above, the person may request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The person shall place the disputed amount in escrow pending disposition of the hearing and shall provide proof of same to the Department.

New Rule, R.1995 d.208, effective April 17, 1995.

See: 27 N.J.R. 20(b), 27 N.J.R. 1576(a).

Amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

In (a), added "Treasurer," preceding "State of New Jersey" in the second sentence; added (c).

Amended by R.2006 d.233, effective June 19, 2006.

See: 38 N.J.R. 5(a), 38 N.J.R. 2671(a).

Section was "Failure to pay license and examination charges". Substituted "person" for "licensee" throughout; in (a), deleted "license fee" following "application fee," inserted " , other than an assessment made under N.J.A.C. 3:5", and added the last sentence; substituted "person or the authority of the person to conduct business in this State" for "licensee" in the next to last sentence of (a) and the last sentence of (b); and substituted "the person" for "a licensee" in (c).

Administrative Correction.

See: 38 N.J.R. 3016(a).

SUBCHAPTER 7. MISCELLANEOUS**3:1-7.1 Name change**

A licensee who makes any change in name shall, within 10 days of such change, submit written proof of the name change to the Commissioner, and shall surrender its license or licenses for issuance of a new license or licenses reflecting the change. The licensee shall submit evidence of the name change in the form of a copy of the amended certificate of incorporation, alternate name registration, or amended certificate of authority bearing the dated filing stamp of the Department of Treasury, Division of Revenue or a copy of the trade name certificate filed with the office of the county clerk of the county in which the business is located. Within 30 days of receipt of the notice of name change, and all documentation necessary to effectuate the change, the Commissioner shall issue a new license that reflects the change. While the licensee is awaiting the issuance of the license, the licensee may continue in business, provided that all documents are supplied, unless the licensee receives a notice of suspension or revocation, or unless the licensing period, if any, expires.

Emergency amendment, R.1989 d.407, effective July 3, 1989 (expires September 1, 1989).

See: 21 N.J.R. 2398(a).

Fees raised at (a)1; mortgage banker fees added at (a)1xiii.

Branch office fees added at (b).

Adopted concurrent proposal R.1989 d.510, effective August 31, 1989.

See: 21 N.J.R. 2398(a), 21 N.J.R. 3082(a).

Provisions of emergency amendment R.1989 d.407 readopted without change.

Amended by R.1997 d.257, effective June 16, 1997.

See: 29 N.J.R. 1489(a), 29 N.J.R. 2641(a).

In (a), changed time for notification of name change from 30 days to 10 days, specified the legal evidence that must accompany the notification, allowed issuance of a new license as alternative to endorsement; and added last two sentences.

Amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Rewrote (a).

Amended by R.2006 d.233, effective June 19, 2006.

See: 38 N.J.R. 5(a), 38 N.J.R. 2671(a).

Rewrote the section.

3:1-7.2 Duplicate licenses and certificates

(a) A licensee may request a duplicate license or certificate when the original license or certificate issued has been lost or destroyed.

(b) The request for the issuance of such duplicate license or certificate shall be made on forms available from the Department.

Emergency amendment, R.1989 d.407, effective July 3, 1989 (expires September 1, 1989).

See: 21 N.J.R. 2398(a).

Fees increased; mortgage banker or broker added.

Adopted concurrent proposal R.1989 d.510, effective August 31, 1989.

See: 21 N.J.R. 2398(a), 21 N.J.R. 3082(a).

Provisions of emergency amendment R.1989 d.407 readopted without change.

Amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Rewrote (b) and (c).

Amended by R.2006 d.233, effective June 19, 2006.

See: 38 N.J.R. 5(a), 38 N.J.R. 2671(a).

Deleted (c).

3:1-7.3 Requests for certificate of standing, licensee verification, licensing statutes and licensee listings

(a) The Department shall furnish, upon written request, a certificate of standing with seal for a licensee. The fee shall be \$30.00 per certificate if the requester is not subject to assessment pursuant to N.J.A.C. 3:5 but no fee shall be charged if the requester is subject to assessment.

(b) The Department shall furnish upon written request a licensee verification, indicating if a person or entity is licensed and its main office. The fee shall be \$10.00 per verification if the requester is not subject to assessment pursuant to N.J.A.C. 3:5 but no fee shall be charged if the requester is subject to assessment.

(c) The Department shall furnish, upon written request, a copy of licensing statutes or licensee listings. The fee shall be \$0.75 per page for the first 10 pages, \$0.50 per page for the

11th to 20th pages and \$0.25 per page for all pages over 20 or as otherwise established by N.J.S.A. 47:1A-1 et seq.

Amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Rewrote the section.

Amended by R.2006 d.233, effective June 19, 2006.

See: 38 N.J.R. 5(a), 38 N.J.R. 2671(a).

Added "if the requester is not subject to assessment pursuant to N.J.A.C. 3:5 but no fee shall be charged if the requester is subject to assessment" in (a) and (b).

3:1-7.4 Address change

Every licensee referenced in N.J.A.C. 3:1-7.1(a)1 that changes a licensed business address at any time shall, within 10 days of the change, submit information relative to the address change to the Commissioner, and surrender the affected license or licenses; except that pawnbrokers, check cashers and insurance premium finance companies shall comply with the provisions of N.J.A.C. 3:16-1.6, N.J.A.C. 3:24-1.6(h), or N.J.S.A. 17:16D-4, respectively. Licensees submitting a notice of change of address pursuant to this section shall submit their license or licenses for the issuance of the new license reflecting the change. Within 30 days of receipt of the notice of change of address and all documentation necessary to effectuate the change, the Commissioner shall issue a new license or licenses that reflect the change. With the exception of check cashers, while the licensee is awaiting the issuance of the license or licenses reflecting the new address, the licensee may continue in business, provided that all documentation is supplied, unless the licensee receives notice of suspension or revocation, or unless the licensing period if any, expires.

Emergency amendment (new rule), R.1989 d.407, effective July 3, 1989 (expires September 1, 1989).

See: 21 N.J.R. 2398(a).

Adopted concurrent proposal R.1989 d.510, effective August 31, 1989.

See: 21 N.J.R. 2398(a), 21 N.J.R. 3082(a).

Provisions of emergency amendment R.1989 d.407 readopted without change.

Amended by R.1991 d.195, effective April 15, 1991.

See: 23 N.J.R. 254(a), 23 N.J.R. 1125(a).

Motor vehicle installment sellers, sales finance companies, home repair salesmen, home repair contractors and home financing agencies exempted from the \$75.00 fee.

Amended by R.1997 d.257, effective June 16, 1997.

See: 29 N.J.R. 1489(a), 29 N.J.R. 2641(a).

Inserted N.J.A.C. cites, changed time for notification of change of address from 20 days to 10 days, inserted exception clause for pawnbrokers, check cashers and insurance premium finance companies, and added last three sentences.

Amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Rewrote the section.

Amended by R.2006 d.235, effective June 19, 2006.

See: 38 N.J.R. 10(a), 38 N.J.R. 2674(a).

In the first sentence, substituted "referenced" for "reference", deleted "in Schedule A or 3:1-7.2(c)1 in Schedule B" following "N.J.A.C. 3:1-7.1(a)1", inserted "and" preceding "surrender", deleted "and pay to the Department an address change fee of \$75.00" following "affected license or licenses" and substituted "cashers" for "cashiers"; deleted "and fees" following "documentation" in the second sentence; and in the third sentence, substituted "With the exception of check cashers, while" for "While"; deleted "new" preceding "license or licenses" and inserted "reflecting the new address"; substituted "is" for "and fees are"; deleted "biennial" preceding "licensing period" and inserted "if any".