

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, 17:16L-1 et seq., 17:16L-1 et seq., and 17:16N-1 et seq.

Source and Effective Date

R.2001 d.112, effective March 6, 2001.
See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Executive Order No. 66(1978) Expiration Date

Chapter 1, General Provisions, expires on March 6, 2006.

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: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. INTEREST AND USURY

- 3:1-1.1 Interest rates
- 3:1-1.2 Interest rates; other loans

SUBCHAPTER 2. PROCEDURAL RULES

- 3:1-2.1 Definitions
- 3:1-2.2 Charter applications
- 3:1-2.3 Branch applications of depositories
- 3:1-2.4 Branch application of out-of-State banks and out-of-State associations
- 3:1-2.5 Charter applications; notice and publication
- 3:1-2.6 Branch applications; notice and publication
- 3:1-2.7 Charter applications; objections and hearings

- 3:1-2.8 Branch applications; objections and oral presentations
- 3:1-2.9 Insufficiency of data in support of application; hearing
- 3:1-2.10 Oral presentations
- 3:1-2.11 Failure of party requesting oral presentation to appear
- 3:1-2.12 Minibranches; space limitation
- 3:1-2.13 Prehearing conference
- 3:1-2.14 Procedure for oral presentation
- 3:1-2.15 Closing of branch offices
- 3:1-2.16 Officially recognized data sources
- 3:1-2.17 Applications; copies
- 3:1-2.18 Charter applications; conditions for approval
- 3:1-2.19 Minimum and maximum stock subscriptions
- 3:1-2.20 Criteria for branch approval; Public interest
- 3:1-2.21 Criteria for branch approval; Compliance with Community Reinvestment Act
- 3:1-2.22 Modification of order and/or rehearing
- 3:1-2.23 Fees; banks and savings banks
- 3:1-2.24 Fees, State associations
- 3:1-2.25 Relaxation or dispensation of requirements of subchapter
- 3:1-2.26 (Reserved)

SUBCHAPTER 3. MORTGAGE LOANS IN DISASTER AREAS

- 3:1-3.1 Definitions
- 3:1-3.2 Duties of Commissioner
- 3:1-3.3 Emergency mortgage powers exercisable by financial institutions
- 3:1-3.4 Preliminary requirements
- 3:1-3.5 Limitations

SUBCHAPTER 4. GOVERNMENTAL UNIT DEPOSIT PROTECTION

- 3:1-4.1 Public depository; acceptance of deposits
- 3:1-4.2 Filing of a certified statement by public depository
- 3:1-4.3 Certified statement; time for filing
- 3:1-4.4 Computation of public funds
- 3:1-4.5 Public funds exceeding 75 percent of capital funds
- 3:1-4.6 Retention of certified statement
- 3:1-4.7 Scope of terms surplus and undivided profits
- 3:1-4.8 Substitution of collateral
- 3:1-4.9 Agreement or resolution; custodial depository and Commissioner
- 3:1-4.10 Agreement or resolution; public depository and custodial depository
- 3:1-4.11 Security; State and other public deposits
- 3:1-4.12 Records maintained by Commissioner; eligibility

SUBCHAPTER 5. (RESERVED)

SUBCHAPTER 6. FEES

- 3:1-6.1 Definitions
- 3:1-6.2 Assessments
- 3:1-6.3 Payment dates
- 3:1-6.4 Effective date
- 3:1-6.5 Annual review
- 3:1-6.6 Examination charge
- 3:1-6.7 Failure to pay license and examination charges

SUBCHAPTER 7. MISCELLANEOUS FEES

- 3:1-7.1 Name change
- 3:1-7.2 Duplicate licenses and certificates
- 3:1-7.3 Requests for certificate of standing, licensee verification, licensing statutes and licensee listings
- 3:1-7.4 Address change
- 3:1-7.5 Fees subject to review
- 3:1-7.6 Penalty for late filing

SUBCHAPTER 8. (RESERVED)

SUBCHAPTER 9. HOME MORTGAGE DISCLOSURE

- 3:1-9.1 Authority; scope; enforcement
- 3:1-9.2 Definitions

- 3:1-9.3 through 3:1-9.6 (Reserved)
- 3:1-9.7 Violations of the Act
- 3:1-9.8 Powers of the Commissioner; investigations and hearings
- 3:1-9.9 Orders; grounds; content; hearing; service
- 3:1-9.10 Investigatory hearings; presiding officer
- 3:1-9.11 Presiding officer's powers
- 3:1-9.12 Investigatory hearing procedure
- 3:1-9.13 Report of presiding officer
- 3:1-9.14 Exceptions to report of presiding officer
- 3:1-9.15 Decision by the Commissioner
- 3:1-9.16 Continued violation of Act; penalty
- 3:1-9.17 Notice of charges; continued violation of Act
- 3:1-9.18 through 3:1-9.19 (Reserved)

SUBCHAPTER 10. RESTRICTIONS ON REAL PROPERTY TRANSACTIONS

- 3:1-10.1 Definitions
- 3:1-10.2 Application required on real property transactions
- 3:1-10.3 Approval or denial of real estate applications
- 3:1-10.4 Objectors and hearings

SUBCHAPTER 11. RESTRICTIONS ON LOANS INVOLVING AFFILIATED PERSONS

- 3:1-11.1 Definitions
- 3:1-11.2 Prohibition

SUBCHAPTER 12. MULTIPLE PARTY DEPOSIT ACCOUNTS

- 3:1-12.1 Definitions
- 3:1-12.2 Types of contracts
- 3:1-12.3 Types of accounts
- 3:1-12.4 Specific content of deposit contract
- 3:1-12.5 Additional provisions
- 3:1-12.6 Change in contract
- 3:1-12.7 Copy of contract
- 3:1-12.8 Limitation of subchapter
- 3:1-12.9 Effective dates

SUBCHAPTER 13. INSURANCE ACTIVITIES

- 3:1-13.1 Insurance tie-in prohibition
- 3:1-13.2 (Reserved)

SUBCHAPTER 14. REVOLVING CREDIT EQUITY LOANS

- 3:1-14.1 Authorization
- 3:1-14.2 Revolving credit equity loan agreement
- 3:1-14.3 Terms of agreement
- 3:1-14.4 Notification of changes
- 3:1-14.5 Interest
- 3:1-14.6 Methods of computing interest

SUBCHAPTER 15. AVAILABILITY OF FUNDS

- 3:1-15.1 Definitions
- 3:1-15.2 Compliance with Federal law
- 3:1-15.3 through 3:1-15.8 (Reserved)

SUBCHAPTER 16. MORTGAGE LOANS, FEES, OBLIGATIONS

- 3:1-16.1 Definitions
- 3:1-16.2 Fees
- 3:1-16.3 Application process
- 3:1-16.4 Lock-in agreements
- 3:1-16.5 Commitment process
- 3:1-16.6 Expiration of lock-in or commitment
- 3:1-16.7 Closing
- 3:1-16.8 Trust funds
- 3:1-16.9 No private right of action
- 3:1-16.10 Special rules for brokers
- 3:1-16.11 Operative date

3:1-16.12 (Reserved)

SUBCHAPTER 17. AUTOMATED TELLER MACHINES (ATM)

- 3:1-17.1 Definitions
- 3:1-17.2 On site location
- 3:1-17.3 Off site location
- 3:1-17.4 Interstate transactions
- 3:1-17.5 (Reserved)

SUBCHAPTER 18. FOREIGN BANKS AND ASSOCIATIONS; REGISTRATION OF SERVICE FACILITIES

- 3:1-18.1 Definitions
- 3:1-18.2 Registration requirement
- 3:1-18.3 Registration process
- 3:1-18.4 Registration fee
- 3:1-18.5 Notification of registration or deficiency by the Department
- 3:1-18.6 Permitted activities at service facilities
- 3:1-18.7 Examination of service facilities
- 3:1-18.8 Hearing to close service facilities

SUBCHAPTER 19. NEW JERSEY CONSUMER CHECKING ACCOUNTS

- 3:1-19.1 Definitions
- 3:1-19.2 Features of New Jersey Consumer Checking Accounts
- 3:1-19.3 Alternative accounts
- 3:1-19.4 Closing New Jersey Consumer Checking Accounts
- 3:1-19.5 Consumer information requirements

SUBCHAPTER 20. REQUESTS FOR DISCLOSURE OF SOCIAL SECURITY NUMBERS

- 3:1-20.1 Definitions
- 3:1-20.2 Requests for disclosure of social security numbers

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

SUBCHAPTER 1. INTEREST AND USURY

3:1-1.1 Interest rates

(a) The maximum rate of interest to be charged, or taken or received upon a loan of any money, wares, merchandise, goods and chattels 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, 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.

(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.

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.

(c): "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".

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), deleted "made on or after October 20, 1981," following "chattels"; in (b), deleted the last sentence; deleted (d) and (e).

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

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).

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).

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.

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.

"Accepted" means that an application has been received by the Department and it contains all necessary information required or needed by the Department for its review and the Department has acknowledged in writing that the application is ready for review.

"Adequately managed" means, unless otherwise determined in writing by the Commissioner:

1. The achievement of a composite rating of 1 or 2 under the Uniform Financial Institution Rating System or an equivalent rating system, in connection with the most recent examination or subsequent review of the bank, savings bank, or savings and loan; and

2. At least a rating of 2 for management, if such a rating is given.

"Bank" means a New Jersey chartered bank as defined in N.J.S.A. 17:9A-1 and shall include a limited purpose trust company.

"Banking institution" means a depository, or a similar institution chartered by the Federal government or another state.

"Branch application" means an application by a banking institution to establish a full branch or a minibranch office, or to relocate a principal office, full branch office or minibranch office, or to interchange a principal office and full branch office.

"Commissioner" means the Commissioner of the New Jersey Department of Banking and Insurance.

"Company" means any corporation, partnership, business trust, association or any other person except an individual.

"Controlling interest" means ownership or control of a majority of the issued and outstanding capital stock or securities of a corporation, having voting rights.

"Department" means the New Jersey Department of Banking and Insurance.

"Depository" means bank, savings bank or savings and loan association.

"Foreign bank" means a banking institution which has no branch offices in this State.

"Individual" means a natural person.

"Newly-chartered institution" means an institution which has been open to the public for business fewer than three years.

"Out-of-State association" means a savings and loan association or building and loan association insured by the Federal Deposit Insurance Corporation and chartered under the laws of a state other than New Jersey, but not as a bank as defined in 12 U.S.C. § 1813(a)(2).

"Out-of-State bank" means a state bank, as defined in the Federal Deposit Insurance Act, 12 U.S.C. § 1813(a)(2), which is chartered under the laws of a state other than New Jersey.

"Savings and loan association" means a New Jersey chartered savings and loan association, and shall include a capital stock association, and a mutual association.

"Savings bank" means a New Jersey chartered savings bank, and shall include a capital stock savings bank and a mutual savings bank.

"Sufficient compliance" means that the depository has received a currently applicable Community Reinvestment Act, 12 U.S.C. §§ 2901 et seq., (CRA) rating of "satisfactory or better" by the applicable Federal regulatory agency. A depository which has a currently applicable CRA rating by the applicable Federal regulatory agency of "needs to improve" shall be considered to be in sufficient compliance if it has entered into an agreement with the Federal agency which is intended to improve its CRA rating, and the Department has verified that the institution has taken reasonable steps to comply with the agreement.

"Well capitalized" means a depository that exceeds the required minimum level for each relevant capital measure, as that term is defined in 12 U.S.C. § 1831 or its successor section.

Amended by R.1991 d.48, effective February 4, 1991.
See: 22 N.J.R. 3425(a), 23 N.J.R. 294(b).

Deleted "executed indicia of title" as an acceptable document.
Repeal and New Rule, R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Section was "Applications; acceptance".

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.2001 d.112, effective April 2, 2001.

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

Added "Accepted", "Adequately managed", "Newly-chartered institution" and "Well capitalized"; in "Sufficient compliance", inserted the U.S.C. reference; substituted "means" for "shall mean" throughout.

3:1-2.2 Charter applications

(a) Every applicant for a depository charter is required to file with the Department the following data in addition to the statutorily required certification of incorporation and affidavits required by N.J.A.C. 17:9A-9, 17:12B-14 and 17:12B-246:

1. An economic feasibility study delineating the proposed trade area to be served by the applicant, as well as yearly deposit estimates for the first five years of operation;

2. A pro forma balance sheet and profit and loss statement which shall project the financial condition and net income or loss of the depository on an annual basis for a period of five years and shall indicate the anticipated break-even date, and a business plan for the depository;

3. Departmental forms completed by each incorporator and prospective officer and director containing biographical and financial information, and authorizations by such persons for background checks;

4. The required non-refundable application filing fee;

5. An indicia of title for the proposed site;

6. A copy of an application to be filed with the Federal Deposit Insurance Corporation (F.D.I.C.) for deposit insurance, if the applicant has applied for a charter that includes the authority to accept deposits. When the final application is filed with the F.D.I.C., a copy shall be simultaneously transmitted to the Department;

7. The proposed directors' code of conduct governing activities both inside and outside the bank;

8. If the site is to be acquired or leased from an affiliated person, an application is required by N.J.A.C. 3:1-10.2;

9. All other information required of a specific applicant by the Commissioner; and

10. Any changes in (a)1 through 9 above.

(b) The Commissioner may return to the applicant any charter application which does not comply with (a) above.

(c) The Commissioner shall accept or reject a charter application within one year after the applicant submits the application. The failure of the applicant to provide all necessary information within one year shall constitute sufficient grounds to reject the application. The Commissioner may extend the one-year limitation when the applicant is not substantially at fault for the delay.

Amended by R.1991 d.48, effective February 4, 1991.

See: 22 N.J.R. 3425(a), 23 N.J.R. 294(b).

Changed name to N.J. Council of Savings Institutions.

Repeal and New Rule, R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Section was "Notice; publication".

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), inserted "required by" preceding the N.J.A.C. references in the introductory paragraph, rewrote (a)6 and added (a)10.

3:1-2.3 Branch applications of depositories

(a) An application by a depository to establish a branch office or a minibranch office shall contain the following items before it will be accepted by the Department:

1. A completed current application form, including the name of the depository and the location of the applied for branch or minibranch office;

2. The required application filing fee;

3. An original certification of a copy of the resolution authorizing the application;

4. If the proposed transaction involves the acquisition of deposits from another banking institution:

i. Pro forma balance sheet projections reflecting the acquiring depository before and after the acquisition; and

ii. Projections of the ratio of Tier 1 capital to total assets of the depository before and after the acquisition;

5. If the branch site is to be acquired or leased from an affiliated person, an application as required by N.J.A.C. 3:1-10.2; and

6. All other documentation required of a specific applicant by the Commissioner or which the applicant wishes the Department to consider.

(b) An application by a depository to relocate a principal office, full branch office or minibranch office from a location in this State to another location in this State, shall contain the following items before it will be accepted by the Department:

1. A completed current application form, including the name of the depository and both locations involved in the applied for relocation;

2. The required application filing fee;

3. An original certification of a copy of the resolution authorizing the application; and

4. If the branch site is to be acquired or leased from an affiliated person, an application as required by N.J.A.C. 3:1-10.2; and

5. All other documentation required of a specific applicant by the Commissioner or which the applicant wishes the Department to consider.

(c) An application by a depository to relocate a branch office or minibranch office from a location outside this State to another location in that state shall contain the following items before it will be accepted by the Department:

1. A completed current application form, including the name of the depository and both locations involved in the applied for relocation;

2. The required application filing fee;

3. An original certification of a copy of the resolution authorizing the application;

4. If the branch site is to be acquired or leased from an affiliated person, an application as required by N.J.A.C. 3:1-10.2; and

5. All other documentation required of a specific applicant by the Commissioner, or which the applicant wishes the Department to consider.

(d) An application by a depository to interchange a branch office and a principal office shall contain the following items before it will be accepted by the Department:

1. A completed current application form, including the name of the depository and the location of each office involved in the applied for interchange;

2. The required application filing fee;

3. An original certification of a copy of the resolution authorizing the application; and

4. All other documentation required of a specific applicant by the Commissioner or which the applicant wishes the Department to consider.

(e) The Commissioner may return to the applicant any branch application which does not comply with (a), (b), (c), or (d) above.

(f) The Commissioner shall accept or reject a branch application within one year after the applicant submits the application. The failure of the applicant to provide all necessary information within one year shall constitute sufficient grounds to reject the application. The Commissioner may extend the one-year limitation when the applicant is not substantially at fault for the delay.

(g) A depository that directly or through a predecessor bank, savings bank or State association by merger or other reorganization has been in business for at least three years, and which is well capitalized, adequately managed, and if applicable, has received in its most recent examination under the "Community Reinvestment Act of 1977," 12 U.S.C. §§ 2901 et seq., a rating of not less than "satisfactory record of meeting community credit needs," or its equivalent, may apply for expedited branch office approval for full branch, mini-branch, relocation, auxiliary and interchange applications by filing for such expedited approval with the Commissioner. The application shall contain:

1. A certification by the depository that it meets the criteria set forth in (g) above that it is entitled to request expedited processing and that it satisfies the same criteria as required for a non-expedited approval; and

2. A notice by the depository that it requests expedited processing. An application shall be deemed approved on the 30th day after receipt by the Commissioner, unless approved or denied earlier by the Commissioner in writing, who as part of the application shall consider whether the interests of the public will be served to advantage by the establishment of such branch.

5. Population Estimates for New Jersey—Official State Estimates, New Jersey Department of Labor, PO Box 056, Trenton, NJ 08625-0056, www.state.nj.us/labor/lra (published annually);

6. United States Department of Commerce, Bureau of the Census, 4700 Silver Hill Road, Suitland, MD 20746, www.census.gov, Construction Review (published monthly);

7. New Jersey Department of Community Affairs, Division of Local Government Services, PO Box 800, Trenton, NJ, 08625, www.state.nj.us/dca/lgs, Annual Report (published annually);

8. New Jersey Department of Labor, Division of Labor Planning and Analysis, PO Box 056, Trenton, NJ 08625-0056, www.state.nj.us/labor/lra, State of New Jersey—Residential Construction Authorized by Building Permits (published annually and available also on a monthly basis);

9. United States Department of Commerce, Bureau of the Census, 4700 Silver Hill Road, Suitland, MD 20746, www.census.gov, Current Population Reports (published monthly);

10. United States Internal Revenue Service, 31 Hopkins Plaza, Baltimore, MD 21203, www.irs.ustreas.gov, Statistics of Income (published annually);

11. New Jersey Department of Community Affairs, Division of Local Government Services, PO Box 800, Trenton, NJ, 08625, www.nj.us/dca/dcahome.htm, United States Census Data for New Jersey Townships (provides tables of statistical information from the most recent United States Census paralleling those available for non-townships in printed census reports);

12. New Jersey Industrial Directory (published annually);

13. Local zoning ordinances and master plans;

14. Federal Deposit Insurance Corporation, 20 Exchange Place, New York, NY 10005, www.fdic.gov, Operating Banking Offices (published annually);

15. Federal Deposit Insurance Corporation, 20 Exchange Place, New York, NY 10005, www.fdic.gov, Bank Operating Statistics (published annually);

16. Federal Deposit Insurance Corporation, 20 Exchange Place, New York, NY 10005, www.fdic.gov, Changes Among Operating Banks and Branches (published annually);

17. Federal Deposit Insurance Corporation, 20 Exchange Place, New York, NY 10005, www.fdic.gov, Summary of Deposits in All Commercial and Mutual Savings Banks (published annually);

18. Federal Home Loan Bank Board, 7 World Trade Center, 22nd Flr., New York, NY 10048-1185, www.fhlbny.com, Summary Savings Accounts by Geographic Area (published annually);

19. Thomson Financial Publishing, 4709 W. Gulf Road, Skokie, IL 60076, www.tpf.com, Polk's World Bank Directory (published semiannually);

20. Department of Agriculture, PO Box 330, Trenton, NJ 08625-0330, www.state.nj.us/agriculture, Soil Conservation Services Studies and Reports;

21. New Jersey Department of Labor, Division of Employment Security, PO Box 056, Trenton, NJ 08625-0056, www.state.nj.us/labor/lra, Covered Employment Trends (published annually and available on a monthly basis);

22. Various County Planning Board Reports, for example, population studies and projections, employment trends, industrial-commercial development studies, and so forth; and

23. New Jersey Department of Banking and Insurance, PO Box 325, Trenton, NJ 08625-0325, www.njdo-bi.org, Annual Report.

(b) Other officially noticeable data will be considered when applicable and relevant.

(c) Any applicant or objector(s) shall, simultaneously with the filing of an application or objection, indicate which of the foregoing sources they object to and detail in writing their reasons for objecting.

Amended by R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

(a): Stylistic revision; (a)22-23: Stylistic revision; deleted (a)24.

Recodified from 3:1-2.18 by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.17, "Closing of branch offices", recodified to 3:1-2.16.

Recodified from N.J.A.C. 3:1-2.17 and 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). Former N.J.A.C. 3:1-2.16, Closing of branch offices, recodified to N.J.A.C. 3:1-2.15.

3:1-2.17 Applications; copies

An original and one copy of all submissions relative to any application shall be filed with the Department.

Recodified from 3:1-2.19 by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.18, "Officially recognized data sources", recodified to 3:1-2.17.

Recodified from N.J.A.C. 3:1-2.18 by R.2001 d.112, effective April 2, 2001.

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

Former N.J.A.C. 3:1-2.17, Officially recognized data sources, recodified to N.J.A.C. 3:1-2.16.

3:1-2.18 Charter applications; conditions for approval

(a) The Commissioner shall condition approval of a charter application by a depository on the following factors:

1. If the depository is authorized to take deposits, on the depository becoming a member of the Federal Deposit Insurance Corporation;

2. The depository will issue and sell shares of its authorized capital stock in sufficient amount to raise its capital base before commencement of operations to at least the minimum amount set forth in N.J.A.C. 3:1-2.19, and will obtain prior approval from the Department for any person purchasing more than five percent of the authorized capital stock;

3. The depository shall comply with all requirements with respect to loans and transactions involving the depository and its directors, offices and other persons set forth in subtitles 1 and 2 of Title 17 of the New Jersey Statutes Annotated and Title 3 of the New Jersey Administrative Code, including, but not limited to, N.J.S.A. 17:9A-71, 17:9A-72, and 17:9A-195, and N.J.A.C. 3:1-11, 3:6-3, 3:6-15, and 3:7-5;

4. For the first three years after issuance of the certificate of authority, the depository shall obtain prior approval from the Commissioner before installing any person on the board of directors or employing any person with the depository in an executive officer position as defined in N.J.A.C. 3:6-3.1;

5. For the first five years after issuance of the certificate of authority, the depository shall maintain a tier 1 capital-to-assets ratio, as that ratio is defined in 12 C.F.R. § 325.2(k), that is at least 10 percent of the bank's total assets unless prior written consent has been received from the Commissioner permitting a lower ratio; and

6. Such other conditions for a specific applicant as the Commissioner identifies as appropriate.

Repealed by R.1984 d.301, eff. July 16, 1984.

See: 16 N.J.R. 947(a), 16 N.J.R. 1967(a).

Section was "Sharing limited facility branch offices; notice, fee".

New Rule, R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Recodified from 3:1-2.20 and amended by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.19, "Applications; copies", recodified to 3:1-2.18.

Amended by R.1998 d.336, effective July 6, 1998.

See: 30 N.J.R. 1112(a), 30 N.J.R. 2421(a).

Rewrote (a)3.

Recodified from N.J.A.C. 3:1-2.19 and 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), inserted "factors" at the end of the introductory paragraph, amended the N.J.A.C. reference in 2, substituted "New Jersey Statutes Annotated" for "Revised Statutes" in 3, deleted former 4 and recodified former 5 as 4, inserted a new 5, and substituted "identifies as" for "deems" in 6. Former N.J.A.C. 3:1-2.18, Applications; copies, recodified to N.J.A.C. 3:1-2.17.

3:1-2.19 Minimum and maximum stock subscriptions

(a) Each charter application for a depository shall provide for stated capital of at least \$5,000,000 which shall include at least \$2,500,000 in capital stock, or such other amount as required by the Commissioner; except that an application for a charter for a trust company, which does not have authority to take deposits, may provide for a stated capital of \$2,000,000 in capital stock; and except that an application for a charter incident to the purchase of a failed institution or a branch or branches of a failed institution, may provide for stated capital of \$4,000,000, or more, or six percent of deposits acquired, whichever is greater, with at least \$2,000,000 in capital stock, so long as the depository agrees to raise additional capital to reach \$5,000,000 within one year following issuance of the Certificate of Authority while also satisfying the capital requirements set forth in N.J.A.C. 3:4.

(b) The incorporators of a depository shall subscribe to all stock listed as issued on the certificate of incorporation, which shall be at least 25 percent of the total capital required by (a) above.

(c) After a charter application is accepted, the balance of the capital stock, if any, shall be offered to the general public in the area to be served by the depository. The proceeds of such sale shall be placed in escrow and remain in escrow and not released until the bank obtains a Certificate of Authority. The form of the escrow agreement shall be approved by the Department.

(d) No individual shall subscribe for stock in excess of 24.9 percent of the total capital required by (a) above.

(e) No company may subscribe for stock in excess of 24.9 percent of the total capital required by (a) above, except a holding company that has registered in accordance with state and Federal law and regulations if required.

Amended by R.1984 d.119, eff. April 16, 1984.

See: 16 N.J.R. 174(a), 16 N.J.R. 870(a).

Specific minimums deleted, Commissioner granted greater discretion; (d) deleted.

Amended by R.1991 d.48, effective February 4, 1991.

See: 22 N.J.R. 3425(a), 23 N.J.R. 294(b).

Minimum changed from \$2,000,000 to \$7,000,000.

Amended by R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Revised heading and (a)-(c); added (d)-(e).

Amended by R.1993 d.258, effective June 7, 1993.

See: 25 N.J.R. 1033(a), 25 N.J.R. 2248(a).

Revised (a).

Recodified from 3:1-2.21 and amended by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.20, "Charter applications; conditions for approval", recodified to 3:1-2.19.

Recodified from N.J.A.C. 3:1-2.20 and amended by R.2001 d.112, effective April 2, 2001.

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

Rewrote (c). Former N.J.A.C. 3:1-2.19, Charter applications; conditions for approval, recodified to N.J.A.C. 3:1-2.18.

3:1-2.20 Criteria for branch approval: Public interest

(a) In reaching a determination as to whether an applicant meets the requirement that "the interests of the public will be served to advantage by the establishment of such full branch" as required by N.J.S.A. 17:9A-20(A)(1)(b), the Commissioner shall consider only the following factors:

1. The availability of the proposed office to the general public or that segment of the public to be served as the case may be;

2. The presence and experience of a newly-chartered institution or an institution subject to supervisory review by the Department within the trade area of the proposed office;

3. The conditions set forth in Departmental regulations regarding insider real estate transactions, if any; and