

CHAPTER 3

DEPARTMENT ORGANIZATION

Authority

N.J.S.A. 17:1-8.1 and 47:1A-2.

Source and Effective Date

R.2000 d.129, effective February 28, 2000.
See: 32 N.J.R. 140(a), 32 N.J.R. 999(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 3, Department Organization, expires on August 27, 2005. See: 37 N.J.R. 932(a), 37 N.J.R. 2859(a).

Chapter Historical Note

Chapter 3, Department Organization, was adopted as R.1990 d.103, effective January 11, 1990. See: 22 N.J.R. 335(a).

Subchapter 2, Nonpublic Records, was adopted as R.1991 d.287, effective June 17, 1991. See: 23 N.J.R. 253(a), 23 N.J.R. 1921(a).

Subchapter 3, Disability Discrimination Grievance Procedure, was adopted as R.1993 d.321, effective July 6, 1993. See: 25 N.J.R. 1314(b), 25 N.J.R. 2860(b).

Pursuant to Executive Order No. 66(1978), Chapter 3, Department Organization, expired on January 11, 1995.

Subchapter 2, Nonpublic Records, and Subchapter 3, Disability Discrimination Grievance Procedure, were adopted as new rules by R.1995 d.125, effective March 6, 1995. See: 27 N.J.R. 20(a), 27 N.J.R. 877(a).

Subchapter 1, Mission and Organization, was adopted as new rules by R.1995 d.272, effective May 3, 1995. See: 27 N.J.R. 2179(b).

Pursuant to Executive Order No. 66(1978), Chapter 3, Department Organization, was readopted as R.2000 d.129, effective February 28, 2000. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. MISSION AND ORGANIZATION

- 3:3-1.1 Mission statement of the Department
- 3:3-1.2 Organization of the Department

SUBCHAPTER 2. NONPUBLIC RECORDS

- 3:3-2.1 Nonpublic records

- 3:3-2.2 Definitions
- 3:3-2.3 Release of Bank Examination Reports to independent auditors

SUBCHAPTER 3. DISABILITY DISCRIMINATION GRIEVANCE PROCEDURE

- 3:3-3.1 Definitions
- 3:3-3.2 Purpose
- 3:3-3.3 Required ADA notice
- 3:3-3.4 Designated ADA coordinator
- 3:3-3.5 Complaint procedure
- 3:3-3.6 Complaint contents
- 3:3-3.7 Complaint form
- 3:3-3.8 Investigation

SUBCHAPTER 4. PETITIONS FOR RULES; RULEMAKING NOTICE

- 3:3-4.1 Scope
- 3:3-4.2 Procedure for petitioner
- 3:3-4.3 Procedure of the Department
- 3:3-4.4 Rulemaking activity
- 3:3-4.5 Sufficient public interest for the purposes of extending the comment period or granting a public hearing

SUBCHAPTER 1. MISSION AND ORGANIZATION

3:3-1.1 Mission statement of the Department

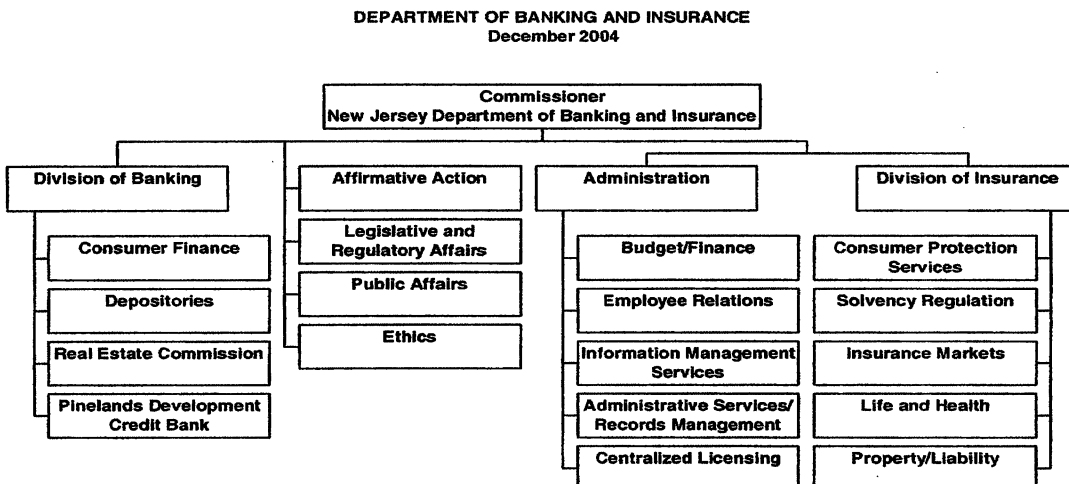
The mission of the Department of Banking and Insurance is to regulate the banking, insurance and real estate industries in a professional and timely manner that protects and educates consumers and promotes the growth, financial stability and efficiency of those industries.

Amended by R.1997 d.394, effective August 25, 1997.
See: 29 N.J.R. 4097(a).

Substantially amended section.
Amended by R.2003 d.138, effective April 7, 2002.
See: 34 N.J.R. 4022(a), 35 N.J.R. 1539(c).
Rewrote the section.

3:3-1.2 Organization of the Department

(a) The organization of the Department of Banking and Insurance appears below.



Amended by R.1997 d.394, effective August 25, 1997.

See: 29 N.J.R. 4097(a).

Rewrote section incorporating organizational chart which previously appeared as an appendix to this section.

Amended by R.2000 d.129, effective March 20, 2000.

See: 32 N.J.R. 140(a), 32 N.J.R. 999(a).

Amended by R.2005 d.30, effective December 14, 2004.

See: 37 N.J.R. 255(a).

Amended organizational chart.

SUBCHAPTER 2. NONPUBLIC RECORDS

3:3-2.1 Nonpublic records

(a) Throughout the Department of Banking and Insurance, the following shall not be deemed to be public records pursuant to N.J.S.A. 47:1A-1 et seq.:

1. Documents obtained or prepared incident to an examination or audit of a financial institution, its holding institution or its subsidiary and any examination or audit report;

2. Business plans and incorporators' financial statements filed in connection with a charter or license application, and all materials the Department receives or prepares incident to an application by a financial institution or other person to make a leeway or other investment;

3. Complaint files maintained by the Department;

4. Memoranda or other correspondence between the Department and the Office of the Attorney General, and all memoranda within the Department concerning advice given by the Office of the Attorney General;

5. Documents obtained pursuant to an ongoing investigation by the Department of a financial institution or other person, when disclosure would be inimical to the public interest;

6. Memoranda of understanding between the Department and a financial institution;

7. Information regarding individual institutions obtained pursuant to surveys conducted by the Department;

8. Personnel or pension records of an individual employed by the Department, except that the following shall be deemed public records:

i. An individual's name, title, position, salary, payroll record, length of service in the Department and in the government, date of separation from government service and the reason therefor, and the amount and type of pension he or she is receiving; and

ii. Data contained in information which discloses conformity with specific experimental, educational or medical qualifications required for government employment or for receipt of a public pension, but in no event shall detailed medical or psychological information be released; and

9. Personnel or pension records of an employee, officer, director or other person affiliated with a financial institution, such as the residence address, residence telephone number, salary or social security number, when such information is contained in any report, filing or record held by the Department.

(b) The fact that a document is not listed in (a) above shall not be construed as evidence that the document is a public record for purposes of N.J.S.A. 47:1A-1 et seq.

Amended by R.1991 d.525, effective October 21, 1991.

See: 23 N.J.R. 1858(a), 23 N.J.R. 3133(c).

Added (a)9 exempting from "Right to know", personnel or pension records with personal information, contained in reports, filings or records held by the Department and added new (b) disclaimer.

Administrative change.

See: 29 N.J.R. 4099(a).

3:3-2.2 Definitions

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

"Independent auditor" means a certified public accountant or other person approved by the Commissioner of Banking and Insurance who is retained by the depository institution pursuant to 12 U.S.C. 1831m(a) or N.J.S.A. 17:9A-253.

"Report of Examination" means documents obtained or prepared incident to an examination or audit of a financial institution pursuant to N.J.S.A. 17:9A-260, its holding institution or its subsidiary and any examination or audit report.

New Rule, R.1994 d.49, effective January 18, 1994.

See: 25 N.J.R. 4819(a), 26 N.J.R. 351(a).

Administrative change.

See: 29 N.J.R. 4099(a).

3:3-2.3 Release of Bank Examination Reports to independent auditors

(a) The Report of Examination shall be made available for inspection by an independent auditor retained by the depository institution in connection with the audit of the depository institution subject to the following conditions:

1. The independent auditor shall review the Report of Examination only on the premises of the institution and shall not make or retain any copies of such information; and

2. The independent auditor shall not disclose the confidential supervisory information for any purpose without the prior written approval of the Commissioner except as necessary to provide advice to the institution.

New Rule, R.1994 d.49, effective January 18, 1994.

See: 25 N.J.R. 4819(a), 26 N.J.R. 351(a).

Administrative change.

See: 29 N.J.R. 4099(a).

SUBCHAPTER 3. DISABILITY DISCRIMINATION GRIEVANCE PROCEDURE

3:3-3.1 Definitions

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

"ADA" means the Americans with Disabilities Act, 42 U.S.C.A. § 12101 et seq.

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

"Designated decision maker" means the Commissioner of Banking and Insurance or his or her designee.

Administrative change.

See: 29 N.J.R. 4099(a).

3:3-3.2 Purpose

(a) These rules are adopted by the agency in satisfaction of the requirements of the ADA and regulations promulgated pursuant thereto, 28 C.F.R. 35.107.

(b) The purpose of these rules is to establish a designated coordinator whose duties shall include assuring that the agency complies with and carries out its responsibilities under the ADA. Those duties shall also include the investigation of any complaint filed with the agency pursuant to N.J.A.C. 3:3-3.5 through 3.8.

3:3-3.3 Required ADA notice

In addition to any other advice, assistance or accommodation provided, a copy of the following notice shall be given to anyone who inquires regarding the agency's compliance with the ADA or the availability of accommodation which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the agency.

AGENCY NOTICE OF ADA PROCEDURE

The agency has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Justice regulations implementing Title II of the Americans with Disabilities Act. Title II states, in part, that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from participation in, be denied the benefits of or be subjected to discrimination" in programs or activities sponsored by a public entity.

Rules describing and governing the internal grievance procedure can be found at N.J.A.C. 3:3-3. As those rules indicate, complaints should be addressed to the agency's designated ADA Coordinator, who has been designated to coordinate ADA compliance efforts, at the following address:

ADA Coordinator
Department of Banking and Insurance
20 West State Street
PO Box 040
Trenton, New Jersey 08625-0040

1. A complaint may be filed in writing or orally, but should contain the name and address of the person filing it, and briefly describe the alleged violation. A form for this purpose is available from the designated ADA coordinator. In cases of employment related complaints, the procedures established by the Department of Personnel, N.J.A.C. 4A:7-1.1 et seq., will be followed where applicable.

2. A complaint should be filed promptly within 20 days after the complainant becomes aware of the alleged violation. (Processing of allegations of discrimination which occurred before this grievance procedure was in place will be considered on a case-by-case basis.)

3. An investigation, as may be appropriate, will follow the filing of a complaint. The investigation will be conducted by the agency's designated ADA Coordinator. The rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.

4. In most cases a written determination as to the validity of the complaint and a description of the resolution, if any, will be issued by the designated decision maker and a copy forwarded to the complainant no later than 45 days after its filing.

5. The ADA coordinator will maintain the files and records of the agency relating to the complaints filed.

6. The right of a person to a prompt and equitable resolution of the complaint filed hereunder will not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible Federal department or agency or the New Jersey Division on Civil Rights. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

7. The rules will be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the agency complies with the ADA and implementing Federal rules.

Administrative change.
See: 29 N.J.R. 4099(a).

3:3-3.4 Designated ADA coordinator

(a) The designated coordinator of ADA compliance and complaint investigation for the agency is:

ADA Coordinator
 Department of Banking and Insurance
 20 West State Street
 PO Box 040
 Trenton, New Jersey 08625-0040

(b) All inquiries regarding the agency's compliance with the ADA and the availability of accommodation which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the agency should be directed to the designated coordinator identified in (a) above.

(c) All complaints alleging that the agency has failed to comply with or has acted in a way that is prohibited by the ADA should be directed to the designated ADA coordinator identified in this section, in accordance with the procedures set forth in N.J.A.C. 3:3-3.5 through 3.8.

Administrative change.
 See: 29 N.J.R. 4099(a).

3:3-3.5 Complaint procedure

A complaint alleging that the agency has failed to comply with the ADA or has acted in a way that is prohibited by the ADA shall be submitted either in writing or orally to the designated ADA coordinator identified in N.J.A.C. 3:3-3.4. A complaint alleging employment discrimination will be processed pursuant to the rules of the Department of Personnel, N.J.A.C. 4A:7-1.1 through 3.4, if those rules are applicable.

3:3-3.6 Complaint contents

(a) A complaint submitted pursuant to this subchapter may be submitted in or on the form set forth at N.J.A.C. 3:3-3.7.

(b) A complaint submitted pursuant to this subchapter shall include the following information:

1. The name of the complainant, and/or any alternate contact person designated by the complainant to receive communication or provide information for the complainant;
2. The address and telephone number of the complainant or alternate contact person; and
3. A description of manner in which the ADA has not been complied with or has been violated, including times and locations of events and names of witnesses if appropriate.

3:3-3.7 Complaint form

The following form may be utilized for the submission of a complaint pursuant to this subchapter:

Americans with Disabilities Act Grievance Form

Date: _____
 Name of grievant: _____
 Address of grievant: _____
 Telephone number of grievant: _____
 Disability of grievant: _____
 Name, address and telephone number of alternate contact person: _____

Agency alleged to have denied access:

Department: _____
 Division: _____
 Bureau or office: _____
 Location: _____

Incident or barrier:

Please describe the particular way in which you believe you have been denied the benefits of any service, program or activity or have otherwise been subject to discrimination. Please specify dates, times and places of incidents, and names and/or positions of agency employees involved, if any, as well as names, addresses and telephone numbers of any witnesses to any such incident. Attach additional pages if necessary.

Proposed access or accommodation:

If you wish, describe the way in which you feel access may be had to the benefits described above, or that accommodation could be provided to allow access.

A copy of the above form may be obtained by contacting the designated ADA coordinator identified at N.J.A.C. 3:3-3.4.

3:3-3.8 Investigation

(a) Upon receipt of a complaint submitted pursuant to this subchapter, the designated ADA coordinator will notify the complainant of the receipt of the complaint and the initiation of an investigation into the matter. The designated ADA coordinator will also indicate a date by which it is expected that the investigation will be completed, which date shall not be later than 45 days from the date of receipt of the complaint, unless a later date is agreed to by the complainant.

(b) Upon completion of the investigation, the designated ADA coordinator shall prepare a report for review by the designated decision maker for the agency. The designated decision maker shall render a written decision within 45 days of receipt of the complaint, unless a later date is agreed to by the complainant, which decision shall be transmitted to the complainant and/or the alternate contact person if so designated by the complainant.

SUBCHAPTER 4. PETITIONS FOR RULES; RULEMAKING NOTICE

Authority

N.J.S.A. 17:1-8.1, 17:1-15e and 52:14B-1 et seq.

Source and Effective Date

R.2003 d.138, effective April 7, 2003.
See: 34 N.J.R. 4022(a), 35 N.J.R. 1539(c).

3:3-4.1 Scope

This subchapter shall apply to all petitions made by interested persons for the promulgation, amendment or repeal of any rule by the Department of Banking and Insurance, pursuant to N.J.S.A. 52:14B-4(f). These rules apply to requirements for a public comment period extension or a public hearing when sufficient public interest is established, and to the rulemaking notice the Department will provide.

3:3-4.2 Procedure for petitioner

(a) Any person who wishes to petition the Department to promulgate, amend or repeal a rule must submit to the Commissioner, in writing, the following information:

1. The name of the petitioner;
2. The substance or nature of the rulemaking which is requested;
3. The reasons for the request and the petitioner's interest in the request;
4. References to the statutory authority for the Department to take the requested action; and
5. A caption at the top of the document identifying it as a petition for rulemaking pursuant to N.J.S.A. 52:14B-4(f) and this subchapter.

(b) Petitions shall be sent to the following address:

New Jersey Department of Banking and Insurance
Legislative and Regulatory Affairs
ATTN: Rulemaking Petitions
PO Box 325
Trenton, NJ 08625-0325

(c) Any document submitted to the Department of Banking and Insurance which is not in substantial compliance with (a) above shall not be deemed to be a petition for a rule requiring further Department action pursuant to N.J.S.A. 52:14B-4(f).

3:3-4.3 Procedure of the Department

(a) Upon receipt of a petition in compliance with N.J.A.C. 3:3-4.2, the Department will file a notice of petition with the Office of Administrative Law for publication in the New Jersey Register. The notice will include:

1. The name of the petitioner;
2. The substance or nature of the rulemaking action which is requested;
3. The problem or purpose which is the subject of the request; and

4. The date the petition was received.

(b) Within 60 days of receiving a petition, the Department will mail to the petitioner, and file with the Office of Administrative Law, for publication in the New Jersey Register, a notice of action on the petition which will include:

1. The name of the petitioner;
2. The Register citation for the notice of petition, if that notice appeared in a previous Register;
3. Certification by the Commissioner that the petition was duly considered pursuant to law;
4. The nature or substance of the Department's action upon the petition; and
5. A brief statement of reasons for the Department's action.

(c) Department action on a petition shall either:

1. Deny the petition and provide a written statement of the Department's reasons to the petitioner, and include such reasons in its notice of action;
2. Grant the petition and within 90 days file a notice of proposed rule or a notice of preproposal for a rule with the Office of Administrative Law; or
3. Refer the matter for further deliberations, the nature of which shall be specified to the petitioner and in the notice of action and which shall conclude within 90 days of such referral. Upon conclusion of such further deliberations, the Department shall either deny the petition or grant the petition and initiate a rulemaking proceeding within 90 days.

3:3-4.4 Rulemaking activity

(a) The Department shall provide notice of new rules, amendments, repeals or adoptions by posting these rules on its website at <http://www.state.nj.us/dobi/legregs.htm> and to the news media maintaining a press office in the State House Complex.

(b) The Department shall post its proposals in the Department's Library, which is located on the 1st Floor, 20 West State Street, Trenton, NJ 08625. The Department shall also distribute its proposals to the Department's list of "interested persons" by e-mail or hard copy. Interested persons are those who have informed the Department in writing that they wish to receive notice of its proposed regulations.

3:3-4.5 Sufficient public interest for the purposes of extending the comment period or granting a public hearing

(a) In determining whether sufficient public interest has been demonstrated for the purposes of extending the comment period pursuant to N.J.A.C. 1:30-5.4, the Commissioner shall consider the following criteria:

1. Whether comments received indicated a previously unrecognized impact on regulated entities or persons; or

2. Whether comments received raise unanticipated issues related to the notice of proposal.

(b) In determining whether sufficient public interest has been demonstrated for purposes of conducting a public hearing pursuant to N.J.A.C. 1:30-5.5, the Commissioner shall consider the application of an interested person that has been submitted on a form prescribed by the Commissioner. Such application shall be submitted within 60 days following the publication of the notice of proposal in the New Jersey Register.

1. A person interested in having a public hearing held on a notice of proposal shall submit an application on a form prescribed by the Commissioner, to Legislative and Regulatory Affairs, Department of Banking and Insurance, 20 West State Street, PO Box 325, Trenton, NJ 08625-0896. The application shall contain the following information:

i. The person's name, address, telephone number, agency or association (if applicable);

ii. The citation and title of the proposed rule and the date the notice of proposal was published in the New Jersey Register; and

iii. The reasons a public hearing regarding the notice of proposal is considered necessary pursuant to (c) below.

(c) Sufficient public interest for the purpose of holding a public hearing, pursuant to N.J.A.C. 1:30-5.5, shall be demonstrated if upon reviewing the application the Commissioner determines that additional data, findings and/or analysis regarding the notice of proposal are necessary for the Department to review prior to adoption of the proposal in order to ensure that the notice of proposal does not violate the intent of the statutory authority.

(d) A public hearing on a notice of proposal shall be conducted in accordance with the provisions of N.J.A.C. 1:30-5.5.

(e) The recommendations of the hearing officer, and the Commissioner's decision to accept, reject or modify any recommendations, shall be summarized and published in the New Jersey Register pursuant to N.J.A.C. 1:30-5.5(g).