

**3:1-7.5 Fees subject to review**

The fees in the schedules of this subchapter shall be subject to periodic review and shall be increased or decreased in accordance with the cost of the services performed by the Department.

Recodified from N.J.A.C. 3:1-7.4 by 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.2001 d.112, effective April 2, 2001.

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

Inserted "cost of the" preceding "services performed".

**3:1-7.6 Penalty for late filing of annual reports and/or late payment of assessments**

(a) Licensed lenders, motor vehicle installment sellers, home repair contractors, home financing agencies, check cashers, money transmitters, debt adjusters, foreign money transmitters, pawnbrokers, insurance premium finance companies, or any other licensees who fail to file an annual report on a timely basis as specified below shall be subject to a \$50.00 per day penalty. With the exception of licensed lenders, all such licensees who file applications to renew their license after the license expiration date shall be subject to a penalty of \$50.00. Licensed lenders who file renewal license applications after the expiration of their licenses shall be subject to N.J.A.C. 3:15-2.6, including any penalties specified therein.

1. Annual reports filed electronically will be deemed late if received after April 1st of the year following the calendar year covered by the annual report.

2. Annual reports filed by hard copy shall be considered late if mailed or shipped with an overnight delivery service after March 1 of the year following the calendar year covered by the annual report. Hard copy reports may only be filed by licensees who have received an exemption from the Department pursuant to N.J.A.C. 3:23-4.2 prior to filing.

3. Annual reports found by the Department to be incomplete shall be deemed not filed.

4. Any report not filed by the date due, including those deemed not filed, shall be considered late and will be subject to penalty.

(b) A licensed lender, motor vehicle installment seller, home repair contractor, home financing agency, check casher, money transmitter, debt adjuster, foreign money transmitter, pawnbroker, insurance premium finance company and any other licensee that submits payment of the assessment imposed upon them pursuant to N.J.S.A. 17:1C-33 et seq. and N.J.A.C. 3:5 after the due date indicated on their assessment statement shall be subject to a penalty.

1. Assessments paid with a dishonored or returned check shall be considered unpaid until a replacement check is received by the Department.

2. Assessments not paid because a replacement check has not been received by the due date as required by (b)1 above shall be subject to a penalty.

(c) Unless otherwise prescribed by a statute applicable to a particular license type, a licensee who files a late annual report and/or whose assessment payment is unpaid after the date due as set forth in (a) above shall be subject to a penalty, in accordance with the following:

1. For late filing of the annual report, the penalty shall be \$50.00 per day.

2. For late payment of the assessment, the penalty shall be \$150.00 per day up to a maximum of 20 percent of the total assessment due.

(d) In addition to any monetary penalties, a license shall be subject to revocation for an assessment that remains unpaid after the due date indicated on the assessment statement and/or for failing to file an annual report by the due date.

(e) The imposition of penalties shall not prevent the Department from imposing further penalties on the licensee for transacting business without a license.

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.1997 d.257, effective June 16, 1997.

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

In first sentence deleted reference to sales finance companies and inserted additional categories subject to penalty; and inserted second sentence.

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).

Section was "Penalty for late filing". Rewrote the section.

**SUBCHAPTER 8. (RESERVED)****SUBCHAPTER 9. HOME MORTGAGE DISCLOSURE****3:1-9.1 Authority; scope; enforcement**

(a) This subchapter is promulgated pursuant to the provisions of N.J.S.A. 17:16F-11 and N.J.S.A. 17:1-8.1 et seq. This subchapter applies to depository institutions that make mortgage loans. Nothing in this subchapter is intended to, nor shall it be construed to, encourage unsound lending practices or the allocation of credit.

(b) Compliance with this subchapter and N.J.S.A. 17:16F-1 et seq. shall be enforced by the Commissioner of Banking and Insurance of the State of New Jersey.

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), substituted "N.J.S.A. 17:16F-11" for "Chapter I, Public Laws of 1977"; in (b), substituted "N.J.S.A. 17:16F-1 et seq." for "Chapter I, Public Laws of 1977"; substituted "subchapter" for "regulation" throughout.

#### Case Notes

Standby letters of credit rules cited; N.J.S.A. 17:9A-25(3) held not to limit letters of credit to a one year duration, but only to limit the duration of drafts drawn on such letters. *National Surety Corp. v. Midland Bank*, 551 F.2d 21 (3rd Cir.1977).

Former N.J.A.C. 3:1-9.1 through 9.9 held valid; N.J.A.C. 3:1-9.10 through 9.22 held invalid as they pertain to national banks. *National State Bank, Elizabeth, N.J. v. Long*, 469 F.Supp. 1068 (D.N.J.1979) supplemental opinion, modified 630 F.2d 981 (3rd Cir.1980).

### 3:1-9.2 Definitions

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

"Act" means N.J.S.A. 17:16F-1 et seq.

"Annual percentage rate" means the annual percentage rate of finance charge as calculated in accordance with Federal Reserve Board Regulation Z and its supplements.

"Applicant" means any person who files with a depository institution a written, or oral-in-person, request containing such information as is reasonably required by the depository institution for a mortgage loan as defined in this Act.

"Application" means a signed, completed application form submitted to a depository institution containing such information as required by that depository institution for reviewing a residential mortgage loan request or a home improvement loan request.

"Branch office" means any office approved as a branch of the depository institution by that depository institution's Federal or State supervisory agency. Branch office shall not include an office of a depository institution which is fully automated and solely operated by the customer.

"Census tract" means a geographic area as defined and approved by the United States Bureau of Census for statistical purposes. The census tract definitions to be used are those which have been approved for use in the 1980 Census of Population and Housing.

"Depository institution" means any banking institution as defined in N.J.S.A. 17:9A-1, any association as defined in N.J.S.A. 17:12B-5, or any State or Federal credit union, which makes mortgage loans. Any non-depository, majority-owned subsidiary of a depository institution shall be deemed to be part of its parent depository institution for the purposes of this subchapter. No depository institution may aggregate its reports with any other depository institution, subsidiary, affiliate, or otherwise.

"Federally guaranteed mortgage loans" means FHA, FmHA, or VA loans which are insured under Title II of the National Housing Act or under Title V of the Housing Act of 1949 or which are guaranteed under Chapter 37 of Title 38, United States Code.

"Home improvement loan" means a loan unsecured or secured by collateral other than a first lien on a residential real property:

1. The proceeds of which, all or in part, are to be used for the purposes of repairing, rehabilitating, or remodeling an existing residential dwelling located in a State as stated by the borrower to the lender at the time of the loan transaction; or
2. That is recorded on the books of the depository institution as a home improvement loan; or