

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

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 1, General Provisions, expires on September 2, 2006. See: 38 N.J.R. 1493(a).

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
- 3:1-4.13 Eligible collateral

**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 of 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 Type 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)

"Fully funded reserve" means the allowance for loan and lease losses as that term is defined in 12 C.F.R. § 325.2(a) or its successor section.

"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.

"Trade area" means the assessment area of insured institutions as designated for purposes of compliance with the Community Reinvestment Act, 12 U.S.C. §§ 2901 et seq. For uninsured institutions, such as limited purpose trust companies, it means the area within five miles of the institution's proposed office.

"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.  
Amended by R.2002 d.38, effective February 4, 2002.

See: 33 N.J.R. 3598(a), 34 N.J.R. 731(a).

Inserted "Fully funded reserve".

Amended by R.2004 d.50, effective February 2, 2004.

See: 35 N.J.R. 4350(a), 36 N.J.R. 647(a).

In "Accepted", inserted ", whether for expedited or regular processing," following "for its review"; added "Trade area".

### 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, in a form specified by the Commissioner, that recites the following:

i. The depository meets the criteria set forth in (g) above;

ii. The depository is entitled to request expedited processing and does request such processing;

iii. Information identifying each principal office of a State-chartered bank, savings bank or savings and loan association which has been open for less than three years and is located in the trade area of the applicant's proposed branch office;

iv. The cost of the proposed branch office and whether the investment in the office complies with the limitations set forth in N.J.S.A. 17:9A-24(13) or 17:12B-166; and

v. A statement that the transaction complies with N.J.A.C. 3:1-10.1 et seq. regarding the interests of any executive officers, directors, managers and others in the premises, if any.

(h) The Department may remove an accepted application from expedited review if it presents a significant supervisory or compliance concern, or it raises a significant legal or policy issue requiring additional review.

(i) An accepted application for expedited processing 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.

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

See: 16 N.J.R. 946(a), 16 N.J.R. 1966(a).

Substantial changes in section.

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 "Objection and request for oral presentation; time for filing; content".

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

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

Deleted (a)10 and redesignated existing (a)11 to (a)10.

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).

In (a), (b), (c) and (d), inserted "items" following "following"; in (b) and (c), deleted former 5 and recodified former 6 as 5; added (g). Amended by R.2004 d.50, effective February 2, 2004. See: 35 N.J.R. 4350(a), 36 N.J.R. 647(a).

Rewrote (g)1; added (h); recodified former (g)2 as (i), deleted the first sentence and substituted "An accepted application for expedited processing shall" for "An application shall".

#### Case Notes

Appeal of Commissioner's denial of branch banking application held required to be conducted as a "contested case" hearing under the Administrative Procedure Act, where Commissioner had decided to hold a formal hearing; objector banks held parties to administrative proceeding. In re Orange Savings Bank, 172 N.J.Super. 275, 411 A.2d 1150 (App.Div.1980), appeal dismissed 84 N.J. 433, 420 A.2d 339.

A hearing on a branch banking application is neither required by constitutional right nor by statute. Atty.Gen.F.O.1979, No. 6.

#### 3:1-2.4 Branch application of out-of-State banks and out-of-State associations

(a) An application by an out-of-State bank that has no branch offices in New Jersey to acquire a branch office in this State shall contain the following items:

1. A completed current application form, containing the name of the depository, the name of the depository selling the branch and the location of the applied for branch;

2. The required application filing fee;

3. An opinion of counsel that the out-of-State bank is authorized to acquire a branch in New Jersey;

4. If the out-of-State bank intends to immediately relocate the branch to a new location in this State, the exact location of the proposed relocation; and

5. A copy of the application filed with the home state regulator.

(b) An out-of-State bank or out-of-State association, that has at least one branch office in this State, may establish additional branch offices in this State by filing a notice with the Department, so long as the out-of-State bank or out-of-State association is adequately capitalized, will be adequately capitalized and managed after the branch is established and has achieved sufficient compliance with the Community Reinvestment Act. The Department shall post the notice on the Department's website at [www.njdoib.org](http://www.njdoib.org) within a week of receipt. In addition, the out-of-State bank or out-of-State association shall send notice to the New Jersey Bankers Association, the New Jersey League of Community Bankers, and/or their successor organizations, if any, for publication in their weekly bulletins.

(c) An application by an out-of-State bank or out-of-State association to relocate a branch office from a location in this State to another location in this State shall contain the following items:

1. A copy of the application filed with the home state regulator and with the appropriate Federal regulator;

2. The required filing fee; and
3. All other documentation required of a specific applicant by the Commissioner or which the applicant wishes the Department to consider.

New Rule. 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. 3:1-2.4, "Charter applications; notice and publication", recodified to 3:1-2.5.

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

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

Substituted "that" for "which" throughout; in (a) and (c), inserted "items" following "following"; in (b), inserted "League" preceding "Community and Savings Bankers" and substituted ", and/or their successor organizations, if any," for "and the New Jersey Savings League".

Amended by R.2004 d.50, effective February 2, 2004.

See: 35 N.J.R. 4350(a), 36 N.J.R. 647(a).

In (b), inserted the second sentence.

### 3:1-2.5 Charter applications; notice and publication

(a) When a charter application is complete, the Department shall send notice to the applicant setting forth a hearing date. The Department shall also post notice of the hearing on the Department's website at [www.njdoobi.org](http://www.njdoobi.org) within a week of sending the notice. In addition, the Department shall send notice to the New Jersey Bankers Association, the New Jersey League of Community Bankers, and/or their successor organizations, if any, for publication in their weekly bulletins.

(b) Within 10 calendar days after notification of the formal hearing date for any charter application, the applicant shall publish notice of the application once a week for four successive weeks in a newspaper designated by the Commissioner, which is published and circulated in the municipality in which said charter is proposed to be established, or if there be no such newspaper, then in a newspaper of general circulation in the municipality.

(c) The notice shall contain the following:

1. The names of the incorporators;
2. The name and mailing address of the applicant;
3. The proposed location of the principal office;
4. The amount of capital stock and surplus, or the amount of capital deposits, whichever is applicable; and
5. The hearing dates.

(d) The incorporators shall cause a copy of the notice in the form prescribed in (b) above to be forwarded to the chief executive officer of every banking institution having an office within five miles of the proposed location, and to such other offices as the Commissioner shall designate, not more than 10 calendar days after formal notification of the formal hearing date and at least three weeks before the scheduled hearing. Regarding applications of savings and loan associations, the incorporators shall also cause a copy of the notice in the form prescribed by (b) above to be forwarded to the chief executive officer of every savings and loan association having an office within the county where the principal office of the State association is to be located, if not within five miles.

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

See: 16 N.J.R. 946(a), 16 N.J.R. 1966(a).

Deleted "Or Limited Facility Branch" and inserted "application".

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 "Objections to Minibranch applications".

Recodified from 3:1-2.4 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. 3:1-2.5, "Branch applications; notice and publication", recodified to 3:1-2.6.

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 "League" preceding "Community and Savings Bankers" and substituted ", and/or their successor organizations, if any," for "and the New Jersey Savings League".

Amended by R.2004 d.50, effective February 2, 2004.

See: 35 N.J.R. 4350(a), 36 N.J.R. 647(a).

In (a), inserted the second sentence.

### 3:1-2.6 Branch applications; notice and publication

(a) When a branch application is accepted, the Department shall send notice to the applicant and shall also post notice of the acceptance on the Department's website at [www.njdoobi.org](http://www.njdoobi.org). The Department shall also advise, in writing, the New Jersey Bankers Association, the New Jersey League of Community Bankers, and/or their successor organizations, if any, of the acceptance of the application. Each notice shall contain the following:

1. The name and mailing address of the applicant;
2. A brief statement of the nature of the application;
3. The precise location of the site involved in the particular application;
4. The date the Department accepted the application; and
5. The publication of notice shall also include the following statement:

"An individual, bank, savings bank or savings and loan association may object to any full branch or relocation application, and may request that an oral presentation be conducted. All such requests must be in writing and filed within 10 calendar days of the date of the Department's publication of notice of the accepted application on its website at [www.njdoobi.org](http://www.njdoobi.org). Individuals or financial institutions interested in perfecting an objection or request for oral presentation should immediately consult the Department's procedural rules for guidance."

(b) The notice prescribed by (a) above shall be published on the Department's website.

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

See: 16 N.J.R. 946(a), 16 N.J.R. 1966(a).

Deleted "a section 25 association branch".

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 "Oral presentation granted or denied".

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

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

Revised (c).

4. The current financial condition of the applicant, including, but not limited to, capital, asset quality, management, earnings and liquidity. Department files, with respect to the factors contained in this subsection, shall be confidential as required by N.J.S.A. 17:9A-264 and shall not be open or available for review by either the applicant or objectors; and

5. The Commissioner's determination with respect to these factors shall be a final agency decision.

(b) The number of existing institutions and the ability of existing institutions within the trade area of the proposed office to compete with the applicant shall not form the sole basis for denying the full branch approval.

R.1983 d.573, effective December 5, 1983.

See: 15 N.J.R. 1706(a), 15 N.J.R. 2032(b).

Recodified from 3:1-2.22 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. 3:1-2.21, "Minimum and maximum stock subscriptions", recodified to 3:1-2.20.

Recodified from N.J.A.C. 3:1-2.21 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); in (b), substituted "the sole" for "a" preceding "basis". Former N.J.A.C. 3:1-2.20, Minimum and maximum stock subscriptions, recodified to N.J.A.C. 3:1-2.19.

### 3:1-2.21 Criteria for branch approval: Compliance with Community Reinvestment Act

In determining whether to approve a branch application, the Commissioner shall consider whether the institution has achieved sufficient compliance with the Community Reinvestment Act of 1977, 12 U.S.C. §§ 2901 et seq.

R.1983 d.573, effective December 5, 1983.

See: 15 N.J.R. 1706(a), 15 N.J.R. 2032(b).

Recodified from 3:1-2.23 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. 3:1-2.22, "Criteria for branch approval: Public interest", recodified to 3:1-2.21.

Recodified from N.J.A.C. 3:1-2.22 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. 3:1-2.21, Criteria for branch approval; Public interest, recodified to N.J.A.C. 3:1-2.20.

### 3:1-2.22 Modification of order and/or rehearing

(a) When an applicant seeks relief from or modification of an existing Order which restricts stock transfers entered pursuant to authority granted to the Commissioner the applicant shall submit the following:

1. A fee in the amount of \$500.00;
2. An original certification of a copy of a resolution of three-quarters of the duly constituted Board of Directors of the regulated institution approving the request for relief or modification;
3. A memorandum setting forth the grounds for the proposed modification or relief, and outlining the changes

in circumstances or new information creating the need for relief.

(b) The Department shall notify the applicant of receipt of a complete application within 10 days, and shall publish notice of the proposed modification in the weekly associations' bulletins of the New Jersey Bankers Association, the New Jersey League Community and Savings Bankers, and/or their successor organizations, if any. If a hearing is deemed necessary, the notice will also indicate the hearing date, location, time, and the procedures to be followed. Upon receipt of such notice from the Department, the applicant shall then mail notice to all shareholders of the affected institution and provide proof of mailing. Said notice shall include: the applicant's name; a brief statement of the nature of the application; the date, time, and location of the hearing; and the procedure for shareholders to file objections.

(c) The Commissioner reserves the right at any stage in the approval process to order that a hearing shall be conducted. Such order will be transmitted to the applicant and to all objectors and will inform them of the hearing date, time, location, and the procedures to be followed.

(d) The following standards shall be used to determine if relief from the existing Order shall be granted:

1. Would the proposed change contravene the plan which was the subject of existing Order;
2. Would the proposed change have a negative effect on the subject institution, either through disruption of activities, turnover of key personnel, loss of public confidence, or otherwise;
3. Would the proposed change have a chilling effect on other similarly situated institutions;
4. Would the proposed change be fair and equitable to all shareholders;
5. Would the proposed change represent a change in the focus of the regulated institution's activities and create public harm;
6. Would the changes in circumstances render continued compliance with the existing Order burdensome and inequitable; and
7. Such other issues as the parties may deem necessary for a fair and equitable determination by the Commissioner based on all the relevant facts.

New Rule, R.1986 d.293, effective July 21, 1986.

See: 17 N.J.R. 2487(a), 18 N.J.R. 1453(a).

Recodified from 3:1-2.24 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. 3:1-2.23, "Criteria for branch approval: Promise of success", recodified to 3:1-2.22.

Recodified from N.J.A.C. 3:1-2.23 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 (b); deleted (e). Former N.J.A.C. 3:1-2.22, Criteria for branch approval; Compliance with Community Reinvestment Act, recodified to N.J.A.C. 3:1-2.21.

**3:1-2.23 Fees; banks and savings banks**

(a) A bank or savings bank shall pay to the Commissioner for use of the State the following fees:

1. For filing an application for charter ..... \$15,000
2. For filing an application for approval of the establishment of a full branch office ..... \$1,500
  - i. Additional full branch offices with the same application, per branch ..... \$1,000
  - ii. For an expedited branch approval ..... \$1,000
3. For filing an application for approval of the establishment of a mini-branch office ..... \$1,000
4. For filing an application for approval of a change in location of principal office or full branch office ..... \$500.00
5. For filing an application for approval of the cost of the establishment of an auxiliary office ..... \$500.00
6. For filing an application for approval of an interchange between principal office and full branch office ..... \$500.00
7. For filing an agreement of merger, per bank ..... \$3,000
8. For filing plans of acquisition, per company, per bank or savings bank ..... \$3,000
9. For filing an application for conversion:
  - i. From a mutual to a stock savings bank ..... \$3,500
  - ii. From a savings bank to an association ..... \$10,000
  - iii. From a savings bank to a bank ..... \$10,000
  - iv. From a bank to a savings bank ..... \$10,000
  - v. From a bank to a savings bank to an association in a simultaneous application ..... \$10,000
10. For filing a copy of a plan of reorganization ..... \$1,000
11. For the issuance by the Commissioner of a certificate of authority ..... \$500.00
12. For filing a certificate of amendment of a certificate of incorporation, or an amended certificate of incorporation ..... \$200.00
13. For filing any other certificate ..... \$50.00
14. For filing a required report ..... \$100.00
15. For filing a required affidavit ..... \$50.00
16. For filing proof of publication, or other required proof ..... \$50.00
17. For the issuance of a certified copy of any certificate of incorporation or merger or plan of reorganization or any other certificate or affidavit filed in the Department, plus \$2.00 per page ..... \$25.00
18. For filing a pension plan ..... \$500.00
19. For filing an amendment or alteration to a pension plan ..... \$200.00
20. For the issuance of any other approval by the Commissioner, plus per diem charges where applicable ..... \$100.00
21. For the issuance of any extension by the Commissioner, plus per diem charges where applicable ..... \$50.00

22. For filing a certificate of discontinuance and/or closing a branch office ..... \$100.00

(b) An out-of-State bank shall pay to the Commissioner for use of the State the following fees:

1. For filing an application to acquire a branch as the first branch in this State..... \$1,500
2. For filing an application for approval of a change of location of a New Jersey branch office ..... \$100.00
3. For the issuance of any other approval by the Commissioner, plus per diem charges where applicable ..... \$100.00

(c) In addition to the fees in (a), a per diem charge may be assessed when a special investigation of a filing is required.

(d) The Department shall, upon written request, furnish verification of a State-chartered bank, savings bank or savings and loan's authority to conduct business in New Jersey. The fee shall be \$25.00 per verification.

Emergency New Rule, R.1989 d.406, effective July 3, 1989 (expires September 1, 1989).

See: 21 N.J.R. 2397(a).  
 New Rule, R.1989 d.449, effective August 21, 1989.  
 See: 21 N.J.R. 1601(b), 21 N.J.R. 2473(b).  
 Amended by R.1991 d.244, effective May 6, 1991.  
 See: 23 N.J.R. 642(a), 23 N.J.R. 1408(b).

Change of term at (a)4., from "communication terminal branch office" to "automated teller machine."  
 Amended by R.1991 d.294, effective June 17, 1991.  
 See: 23 N.J.R. 929(b), 23 N.J.R. 1919(b).

Added fee for conversion from a savings bank to an association.  
 Amended by R.1994 d.208, effective May 2, 1994.  
 See: 26 N.J.R. 286(a), 26 N.J.R. 1827(b).  
 Amended by R.1994 d.318, effective July 5, 1994.  
 See: 26 N.J.R. 883(b), 26 N.J.R. 2779(a).  
 Recodified from 3:1-2.25 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. 3:1-2.24, "Modification of Order and/or rehearing", recodified to 3:1-2.23.  
 Recodified from N.J.A.C. 3:1-2.24 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), added 2ii; added (d). Former N.J.A.C. 3:1-2.23, Modification of Order and/or rehearing, recodified to N.J.A.C. 3:1-2.22.

**3:1-2.24 Fees, State associations**

(a) Every State association shall pay to the Commissioner the following fees:

1. Application to establish a mutual association ..... \$7,500
2. Application to establish a stock association ..... \$15,000
3. Application for a bulk sale, pursuant to N.J.S.A. 17:12B-204 ..... \$500.00
4. Application for a conversion:
  - i. From a mutual to a stock association ..... \$3,500
  - ii. From an association to a savings bank ..... \$10,000

- iii. From an association to a savings bank to a bank in a simultaneous application . . . . . \$10,000
- 5. Application for a merger:
  - i. Per insured association . . . . . \$3,000
  - ii. Per institution when one or more is an uninsured association . . . . . \$1,500
- 6. Application to establish a branch office, not pursuant to a merger or bulk purchase . . . . . \$1,500
  - i. Additional full branch offices with the same application, per branch . . . . . \$1,000
  - ii. Expedited branch approval . . . . . \$1,000
- 7. Application to interchange a principal and branch office when such interchange involves two separate municipalities . . . . . \$500.00
- 8. Application to interchange a principal and branch office within the same municipality . . . . . \$500.00
- 9. Application to change location of a principal office to another municipality . . . . . \$500.00
- 10. Application to change location of branch office beyond 1,500 feet but within same municipality . . . . . \$500.00
- 11. Application to change location of branch office to another municipality . . . . . \$500.00
- 12. Application to share facilities . . . . . \$100.00
- 13. Application for approval of a savings and loan holding company where the resulting holding company will own 100 percent of the insured association as its only capital through an exchange of stock . . . . . \$2,000
- 14. Filing plans of acquisition, stock savings and loan and existing holding companies . . . . . \$3,000
- 15. Application for change of name . . . . . \$50.00
- 16. Certification by the Commissioner of papers or records on file with the Department, plus \$2.00 per page for each certification . . . . . \$25.00
- 17. Annual report or certificate . . . . . \$50.00
- 18. Dissolution . . . . . \$250.00
- 19. Filing of any other certificate . . . . . \$50.00
- 20. Issuance of any other approval by the Commissioner, plus a per diem . . . . . \$100.00
- 21. For filing a certificate of discontinuance and/or closing a branch office . . . . . \$100.00

(b) Every out-of-State association shall pay to the Commissioner the following fees:

- 1. For filing an application for approval of a change of location of a New Jersey branch office . . . . . \$100.00
- 2. For the issuance of any other approval by the Commissioner, plus per diem charges where applicable . . . . . \$100.00

(c) In addition to the fees in (a) above, a per diem charge may be assessed when a special investigation of a filing is required.

Emergency New Rule, R.1989 d.406, effective July 3, 1989 (expires September 1, 1989).  
 See: 21 N.J.R. 2397(a).  
 New Rule, R.1989 d.449, effective August 21, 1989.  
 See: 21 N.J.R. 1601(b), 21 N.J.R. 2473(b).  
 Amended by R.1991 d.244, effective May 6, 1991.

See: 23 N.J.R. 642(a), 23 N.J.R. 1408(b).  
 Added new (a)7, establishing a \$500.00 fee for ATM application; recodified remaining paragraphs.  
 Amended by R.1991 d.294, effective June 17, 1991.  
 See: 23 N.J.R. 929(b), 23 N.J.R. 1919(b).  
 Added fee for conversion from an association to a savings bank.  
 Amended by R.1994 d.208, effective May 2, 1994.  
 See: 26 N.J.R. 286(a), 26 N.J.R. 1827(a).  
 Amended by R.1994 d.318, effective July 5, 1994.  
 See: 26 N.J.R. 883(b), 26 N.J.R. 2779(a).  
 Recodified from 3:1-2.26 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. 3:1-2.25, "Fees; banks and savings banks", recodified to 3:1-2.24.  
 Recodified from N.J.A.C. 3:1-2.25 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), added 6ii. Former N.J.A.C. 3:1-2.24, Fees; banks and savings banks, recodified to N.J.A.C. 3:1-2.23.

**3:1-2.25 Relaxation or dispensation of requirements of subchapter**

Any procedural requirements of this subchapter may be relaxed or dispensed with by the Commissioner, in his or her discretion, in any case where strict adherence thereto may be deemed inappropriate or unnecessary or may result in injustice.

New Rule, 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. 3:1-2.25, Fees, State associations, recodified to N.J.A.C. 3:1-2.24.

**3:1-2.26 (Reserved)**

Recodified to 3:1-2.25 by R.1996 d.483, effective October 7, 1996.  
 See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).  
 Section was "Fees; State associations".

**SUBCHAPTER 3. MORTGAGE LOANS IN DISASTER AREAS**

**3:1-3.1 Definitions**

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

"Commissioner" means the Commissioner of the Department of Banking and Insurance of the State of New Jersey or his or her duly authorized deputy or representative.

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

"Disaster area" means any area of the State of New Jersey which has been proclaimed to be a disaster by the President of the United States or the Governor of New Jersey, or by any official lawfully succeeding to their respective duties or duly authorized to act for them.

"Financial institution" means any bank, savings bank, savings and loan association, or insurance company that is organized under the laws of this State or is authorized to do business and is doing business under the laws of this State and that is subject to the supervision of the Department of Banking and Insurance of the State of New Jersey.

"Mortgage loan" means any loan made by a financial institution which is secured by a mortgage constituting a lien upon real property or upon a leasehold interest in the fee of real property. Such a mortgage loan may be an existing mortgage loan or part interest thereof purchased or otherwise acquired by a financial institution constituting a lien upon real property or upon a leasehold interest in the fee of real property.

"Period of emergency" means a period of time terminating one year from the date upon which an area was proclaimed to be a disaster area. Such period of time may be extended for not more than six months from the termination date thereof if the Commissioner shall find that emergency conditions affecting mortgage loans still prevail within a disaster area.

Amended by R.2001 d.112, effective April 2, 2001.  
See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

In "Commissioner", neutralized gender reference; added "Department"; in "Financial institution", deleted "building and loan association" preceding "or insurance company" and substituted "that" for "which" throughout.

### 3:1-3.2 Duties of Commissioner

(a) When any area of this State has been proclaimed to be a disaster area, the Commissioner shall investigate and review conditions in the disaster area to determine the extent of destruction and damage to real property and to determine whether or not real property which has been destroyed, damaged or materially affected by the disaster is subject to mortgage liens securing mortgage loans by any financial institution.

(b) If the Commissioner determines that real property within the disaster area, constituting the security of mortgage loans held by financial institutions has been destroyed, damaged or materially affected by the disaster, he may authorize financial institutions to exercise emergency mortgage powers as enumerated in N.J.A.C. 3:1-3.3 Emergency mortgage powers exercisable by financial institutions.

(c) The Commissioner shall authorize the exercise of such emergency mortgage powers by declaring this subchapter to be immediately operative and effective and said declaration shall be announced publicly and circulated in newspapers and financial publications throughout the State.

(d) When any financial institution shall exercise or use any emergency mortgage powers, as enumerated in this subchapter, the Commissioner shall ascertain and determine in connection with and as part of the usual examinations and audits conducted by the Department concerning the affairs, conditions and status of such financial institutions, whether such financial institution has complied with the requirements enumerated in N.J.A.C. 3:1-3.3.

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

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

Internal cites corrected.

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

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

### 3:1-3.3 Emergency mortgage powers exercisable by financial institutions

(a) When at any time the Commissioner, pursuant to N.J.A.C. 3:1-3.2, has declared that this Subchapter shall become operative and effective, a financial institution may exercise and use the emergency mortgage powers enumerated in (b) below.

(b) The emergency mortgage powers which a financial institution may exercise and use pursuant to this subchapter shall consist only of the following:

1. If the security of a mortgage loan, when made originally, consisted of real property improved by a one-family dwelling, an additional mortgage loan may be made. The total of such additional mortgage loan, together with the unpaid or unamortized principal balance due upon the existing mortgage loan or loans shall not exceed 160 percent of the appraised value of the real property, according to the appraisal certification on file with the financial institution.

2. If the security of a mortgage loan, when made originally, consisted of real property improved by either a two-family dwelling, three-family dwelling, or four-family dwelling, an additional mortgage loan may be made. The total of such additional mortgage loan, together with the unpaid or unamortized principal balance due upon the existing mortgage loan or loans shall not exceed 100 percent of the appraised value of the real property according to the appraisal certification on file with the financial institution.

3. If a mortgage loan is secured by real property which, when originally made was represented by improvements other than those described in (b)1 and 2 above, a financial institution may make an additional mortgage loan. The total of any such additional mortgage loan, together with the unpaid or unamortized principal balance due upon the existing mortgage loan or loans, shall not exceed 133 $\frac{1}{3}$  percent of the appraised value according to the appraisal certification on file with the financial institution.

4. When any financial institution holds an existing mortgage loan which by its terms permits additional sums to be advanced or loaned in limited amounts, such financial institution may make additional loans or advances in any amounts, notwithstanding any limitation imposed in the original mortgage instrument; provided, however, that the total of such additional loans or advances shall not exceed the difference between the original principal amount of the existing mortgage loan and the unamortized or unpaid balance thereof.

ii. Be reduced by the booked value of any intangible assets set up on the balance sheet which represent non-material values over and above physical assets, such as goodwill, deferred losses and intangible assets.

2. The term "surplus" shall, in the case of a savings bank, include undivided profits, any reserve for contingency, reserve for securities and reserve for bad debts as computed for Federal income tax purposes, but shall:

i. Exclude any specifically allocated reserves or reserves for known specific charges; and

ii. Be reduced by the booked value of any intangible assets set up on the balance sheet which represent non-material values over and above physical assets, such as goodwill, deferred losses and intangible assets.

3. The term "undivided profits" shall, in the case of an association, include any reserve for contingency required by any law or regulation and any reserve for bad debts as computed for Federal income tax purposes, but shall:

i. Exclude any specifically allocated reserves or reserves for known specific charges; and

ii. Be reduced by the booked value or any intangible assets set up on the balance sheet which represent non-material values over and above physical assets, such as goodwill, deferred losses and intangible assets.

Amended by R.1991 d.186, effective April 1, 1991.  
See: 22 N.J.R. 1809(a), 23 N.J.R. 997(a).

Required that "surplus" and "undivided profits" be reduced by the booked value or any intangible assets set up on the balance sheet which represent non-material values over and above physical assets.

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)3.

### 3:1-4.8 Substitution of collateral

Public depositories shall have the right to make substitutions of eligible collateral between valuation dates without notification to and approval by the Commissioner; provided, that any substituted collateral have a market value as of the date of substitution which is at least equal to the market value of the collateral so replaced as reported on the last valuation date. Any withdrawal of pledged collateral without replacement as mentioned aforesaid requires the prior approval of the Commissioner. A letter to the Commissioner requesting such withdrawal of collateral shall indicate the collateral to be withdrawn and the reason or reasons for such withdrawal. The Commissioner shall transmit to the public depository in writing his or her approval or disapproval of such withdrawal.

Amended by R.1974 d.119, effective May 16, 1974.

See: 6 N.J.R. 130(b), 6 N.J.R. 218(b).

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 last sentence.

### 3:1-4.9 Agreement or resolution; custodial depository and Commissioner

(a) The depositories specified in N.J.S.A. 17:9-44(c) and the Federal Reserve Bank of the Federal Reserve district where the depository institution's principal office is located shall be known as custodial depositories. A public depository shall not deposit collateral in a custodial depository which is a parent or subsidiary of the public depository, or is otherwise related to the public depository.

(b) A custodial depository shall be required to have a written agreement with the Commissioner authorizing such depository to hold securities as collateral for public funds under the terms and conditions enumerated therein.

(c) A public depository who pledges mortgage loans, student loans or Small Business Administration loans insured or guaranteed by the United States of America or an instrumentality thereof or by the State of New Jersey or an instrumentality thereof as to the payment of principal and interest shall file with the Commissioner at the time each certification statement is filed a report of the current status of each mortgage, student loan or Small Business Administration loan pledged as collateral on forms subject to the approval of the Commissioner:

1. The bond or note and mortgage collateral instruments shall be deposited with a custodial depository.

2. The underlying mortgage collateral security shall be homes containing not more than four dwelling units.

3. The market value of the mortgage loan, student loan or Small Business Administration loan shall be 80 per cent of the book value of the loan at the date of filing, until the next semiannual valuation date.

4. Mortgage loans, student loans or Small Business Administration loans contractually delinquent more than three months shall not be considered eligible collateral.

5. Individual ledger cards or comparable records shall be marked to indicate items pledged.

(d) If a public depository fails to meet its minimum regulatory capital requirements as established by the appropriate supervising Federal agency or meets the criteria set forth in N.J.S.A. 17:16J-2(a), the Commissioner may:

1. Require that the public depository pledge readily marketable investment grade securities only, and pledge such securities to the extent of 120 percent of the amount of public funds on deposit not insured by the appropriate Federal insurance fund; and/or

2. Issue a limited certificate which prohibits the public depository from accepting public deposits not insured by the appropriate Federal insurance fund.

As amended, R.1974 d.119, eff. May 16, 1974.

See: 6 N.J.R. 130(b), 6 N.J.R. 218(b).

Amended by R.1991 d.186, effective April 1, 1991 (operative June 1, 1991).

See: 22 N.J.R. 1809(a), 23 N.J.R. 997(a).

New (d) established those provisions which the Commissioner could enforce if a public depository fails to meet its minimum capital requirement.

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).

### 3:1-4.10 Agreement or resolution; public depository and custodial depository

(a) Each public depository which is a State bank, national bank or savings bank shall be required to have a written agreement with a custodial depository. Said agreement shall indicate that the collateral pledged is to be held subject to the order of the Commissioner or his or her authorized deputy and is held as security for public funds as required under the Act.

(b) Each public depository that pledges insured or guaranteed mortgages, student loans or Small Business Administration loans as security for public funds shall file with the Commissioner a resolution of the board of the depository at the time of the initial pledge. The resolution must authorize the pledging of such mortgages, student loans or Small Business Administration loans in a custodial depository, together with other documentation which may be required by the Commissioner.

(c) The aforesaid written agreement or resolution shall indicate that collateral pledged is to be held in a custodial depository subject to the order of the Commissioner or his or her authorized deputy and is held as security for public funds as required by the Act.

As amended, R.1974 d.119, eff. May 16, 1974.

See: 6 N.J.R. 130(b), 6 N.J.R. 218(b).

Amended by R.1991 d.186, effective April 1, 1991 (operative June 1, 1991).

See: 22 N.J.R. 1809(a), 23 N.J.R. 997(a).

(b) deleted referencing requirements for "associations".

### 3:1-4.11 Security; State and other public deposits

The securing of public deposits as required under the Act shall not preclude any public depository from securing State or other public deposits which are otherwise required to be secured by law. The deposits which are otherwise required to be secured shall be excluded from the computation of the average balance of public funds as required in this Subchapter.

As amended, R.1974 d.119, eff. May 16, 1974.

See: 6 N.J.R. 130(b), 6 N.J.R. 218(b).

### 3:1-4.12 Records maintained by Commissioner; eligibility

The Commissioner shall maintain such records as he or she shall deem necessary in order to determine which public depositories have complied with the provision of the Act. After receipt of the periodic certified statement, the Com-

missioner shall give written notification to each reporting public depository of its eligibility to act as a depository for public funds.

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

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

Neutralized gender reference.

### 3:1-4.13 Eligible collateral

(a) All eligible collateral authorized by N.J.S.A. 17:9-41 to secure public funds on deposit in a public depository shall be in a form that is readily marketable and shall not be illiquid in nature. The determination of ready marketability and liquidity shall be made by the Commissioner based upon the existence of a substantial public market for the collateral and a high probability that the Commissioner could convert the collateral into cash promptly through existing available channels.

(b) In addition to obligations otherwise authorized in N.J.S.A. 17:9-41, eligible collateral shall also include irrevocable stand-by letters of credit issued by the Federal Home Loan Bank of New York. The Commissioner shall review and approve the form of all such letters of credit proposed by a public depository as eligible collateral under this section. Further, the original letter of credit shall be held by the Commissioner.

New Rule, R.2002 d.382, effective November 18, 2002.

See: 34 N.J.R. 2363(a), 34 N.J.R. 3957(a).

Amended by R.2006 d.188, effective May 15, 2006.

See: 37 N.J.R. 4495(a), 38 N.J.R. 2115(a).

Added (a); and codified existing text as (b).

## SUBCHAPTER 5. (RESERVED)

## SUBCHAPTER 6. FEES

### 3:1-6.1 Definitions

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

"Discretionary trust assets" means the discretionary trust assets reported to the Department in the report of trust assets.

"Holding company" means a bank holding company or a savings and loan holding company under the supervision of the Department.

"Licensee" means a person other than a bank, savings bank, savings and loan association or credit union that is regulated or supervised by the Division of Banking.

"Non-discretionary trust assets" means the non-discretionary trust assets reported to the Department in the report of trust assets.

“Trust assets” means assets held in trust, as reported to the Department in the report of trust assets.

“Trust company” means a New Jersey bank whose powers are limited by its certificate of incorporation to fiduciary and trust activities, or which has represented to the Department that it will restrict its powers to fiduciary and trust activities.

New Rule, R.1991 d.195, effective April 15, 1991.

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

Section 6.1 was recodified to 6.2.

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

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

Added definitions for “discretionary trust assets” and “non-discretionary trust assets”.

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

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

In “Licensee”, substituted “that” for “which” and “Division of Banking” for “Department”.

**3:1-6.2 Assessments**

(a) Every bank as defined in N.J.S.A. 17:9A-1(1), every savings bank as defined in N.J.S.A. 17:9A-1(13) and every State association as defined in N.J.S.A. 17:12B-5(1) shall be assessed a yearly fee of 0.44 of one cent per \$100.00 of total assets, except that trust assets shall be assessed a yearly fee in accordance with the following schedule:

Trust Assets of each type	Discretionary (cents per \$100 of assets)	Non-Discretionary (cents per \$100 of assets)
0-\$4,999,999,999	.03	.02
\$5 billion-\$20 billion	.02	.01
more than \$20 billion	.01	0

(b) The fee shall be assessed at one-half the yearly rate as of December 31 and one-half the yearly rate as of June 30 of each calendar year.

Emergency amendment, R.1989 d.407, effective July 3, 1989 (expires September 1, 1989).  
See: 21 N.J.R. 2398(a).

Fee per \$100 of total assets raised from 0.30 to 0.36; fee per \$100 of total assets raised from 0.15 to 0.18.

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).

N.J.A.C. 3:1-6.1 and 6.2 are combined as new 6.2(a) and (b); fees and assessments increased.

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

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

Established fee schedule at (a); one-half yearly rate as of December 31 and as of June 30.

**3:1-6.3 Payment dates**

The fee so assessed shall be made payable to the Treasurer of the State of New Jersey and paid on or before March 31 and September 30 of each calendar year. The payment on or before March 31 shall apply to the fees assessed for the first half of the calendar year. The payment on or before September 30 shall apply to the fees assessed for the second half of the calendar year.

**3:1-6.4 Effective date**

The fees assessed pursuant to this regulation will first apply to the first half of calendar 1978.

**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**

(a) The individual per hour per person examination charge for an examination of a bank, savings bank, savings and loan association or holding company shall be \$38.00, plus \$15.00 per day for travel expenses.

(b) The individual per hour per person examination charge for an examination of 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 shall

be \$42.00, plus \$15.00 per day for travel expenses for in-State travel. The fee for out-of-State travel shall approximate the cost of this travel.

(c) The Department shall bill institutions in (a) and (b) above 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).

**Cross References**

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

**3:1-6.7 Failure to pay license and examination charges**

(a) If a licensee pays an examination charge, application fee, license fee or any other fee or charge with a check which is returned for insufficient funds or is not paid for any other reason, the Department shall advise the licensee by letter. The licensee 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 licensee until payment by certified or cashier's check is received.

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

(c) Prior to a license suspension set forth in (a) or (b) above, a licensee 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 licensee 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).

## SUBCHAPTER 7. MISCELLANEOUS FEES

## 3:1-7.1 Name change

(a) 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. The licensee shall also submit to the Department the fee or fees, made payable to the Treasurer, State of New Jersey provided in Schedule A below. Within 30 days of receipt of the notice of name change, and all documentation and fees 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 and fees are supplied, unless the licensee receives a notice of suspension or revocation, or unless the biennial licensing period expires.

## 1. Schedule A:

- i. Motor vehicle installment seller—\$75.00;
- ii. Licensed lender—\$75.00;
- iii. Home repair contractor—\$75.00;
- iv. Home financing agency—\$75.00;
- v. Money transmitter or foreign money transmitter—\$75.00;
- vi. Pawnbroker—\$75.00;
- vii. Check casher—\$75.00;
- viii. Insurance premium finance company—\$75.00;
- ix. Debt Adjusters—\$75.00.

(b) For all licensees with more than one office, the Department shall impose a \$25.00 fee for each license at a branch office affected by the name change.

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).

## 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.

(c) The licensee shall pay to the Department the fee or fees provided in Schedule B of this subchapter for such licenses or certificates.

## 1. Schedule B:

- i. Motor vehicle installment seller—\$25.00;
- ii. Licensed lender—\$25.00;
- iii. Home repair contractor—\$25.00;
- iv. Home financing agency—\$25.00;
- v. Money transmitter or foreign money transmitter—\$25.00;
- vi. Pawnbroker—\$25.00;
- vii. Check casher—\$25.00;
- viii. Home repair salesperson—\$25.00;
- ix. Insurance premium finance company—\$25.00;
- x. Debt Adjusters—\$35.00;
- xi. Mortgage solicitor—\$15.00.

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).

## 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.

(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.

(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.

### 3:1-7.4 Address change

Every licensee reference in N.J.A.C. 3:1-7.1(a)1 in Schedule A or 3:1-7.2(c)1 in Schedule B 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, surrender the affected license or licenses and pay to the Department an address change fee of \$75.00; except that pawnbrokers, check cashiers 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 and fees necessary to effectuate the change, the Commissioner shall issue a new license or licenses that reflect the change. While the licensee is awaiting the issuance of the new license or licenses, the licensee may continue in business, provided that all documentation and fees are supplied, unless the licensee receives notice of suspension or revocation, or unless the biennial licensing period 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 cashiers 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.

### 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

Motor vehicle installment sellers, home repair contractors, home repair salespersons, home financing agencies, check cashers, money transmitters, debt adjusters, foreign money transmitters, pawnbrokers, and insurance premium finance companies that file renewal license applications after the expiration of their licenses shall be subject to a \$50.00 penalty. 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. The imposition of this penalty shall not prevent the Department from imposing further penalties on the licensee for transacting business without a licensee.

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.

## 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

1. A letter requesting registration of a service facility to conduct back office operations, which letter shall include the name of the foreign financial institution and the address of its principal United States office, the address of the proposed service facility, and the name and address of the foreign financial institution agent in this State for service of process; and

2. The required registration fee.

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 "submitting" for "mailing" in the introductory paragraph.

### 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 Alternative accounts

(a) A depository institution may apply to the Commissioner for approval of any account that 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 an alternative form of 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 alternative forms of 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 nor a notice of extension has been issued within that time, the application shall be deemed approved.

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