

TITLE 3

BANKING

CHAPTER 1
GENERAL PROVISIONS

Authority

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

Source and Effective Date

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

Chapter Expiration Date

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

Chapter Historical Note

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

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

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

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

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

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

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

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

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

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

Subchapter 14, Revolving Credit Equity Loans, was adopted as R.1983 d.378, effective September 19, 1983. See: 15 N.J.R. 1147(a), 15 N.J.R. 1575(b).

Pursuant to Executive Order No. 66(1978), Subchapter 9, Home Mortgage Disclosure, was readopted effective August 26, 1983 as R.1983 d.379. See: 15 N.J.R. 1146(a), 15 N.J.R. 1575(a).

Subchapter 13, Insurance Activities, was adopted as R.1983 d.566, effective December 5, 1983. See: 15 N.J.R. 820(a), 15 N.J.R. 2033(a).

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

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

Subchapter 15, Availability of Funds, was adopted as R.1986 d.73, effective March 17, 1986. See: 18 N.J.R. 13(a), 18 N.J.R. 553(a).

Subchapter 16 was adopted as R.1989 d.191, effective April 17, 1989, operative July 16, 1989. See: 20 N.J.R. 1021(b), 21 N.J.R. 981(c).

Pursuant to Executive Order No. 66(1978), Chapter 1, General Provisions, was readopted as R.1991 d.48, effective January 4, 1991. See: 22 N.J.R. 3425(a), 23 N.J.R. 294(b).

Subchapter 17, Automated Teller Machines (ATM), was adopted by R.1991 d.244, effective May 6, 1991. See: 23 N.J.R. 642(a), 23 N.J.R. 1408(b).

Subchapter 18, Foreign Banks and Associations; Registration of Service Facilities, was adopted as R.1991 d.347, effective July 1, 1991. See: 23 N.J.R. 1233(a), 23 N.J.R. 2029(a).

Subchapter 19, New Jersey Consumer Checking Accounts, was adopted as R.1992 d.303, effective August 3, 1992. See: 24 N.J.R. 1667(a), 24 N.J.R. 2710(a).

The Executive Order No. 66(1978) expiration date for Chapter 1, General Provisions, was extended by gubernatorial directive from January 4, 1996 to April 4, 1996. See: 28 N.J.R. 815(a).

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

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

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

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

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

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

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3:1-6.5 Annual review

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

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

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

Substituted "subchapter" for "regulation".

3:1-6.6 Examination charge and per diem rate

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

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

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

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

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

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

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

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

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

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

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

Changed from per diem to per hour charges.

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

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

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

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

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

Cross References

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Administrative Correction.

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

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

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

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

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

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

Branch office fees added at (b).

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

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

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

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

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

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

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

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

Rewrote (a).

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

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

Rewrote the section.

3:1-7.2 Duplicate licenses and certificates

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

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

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

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

Fees increased; mortgage banker or broker added.

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

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

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

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

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

Rewrote (b) and (c).

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

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

Deleted (c).

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

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

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

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

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

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

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

Rewrote the section.

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

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

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

3:1-7.4 Address and official e-mail address change

(a) Licensed lenders and each licensee referenced in N.J.A.C. 3:23-2.1(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, and surrender the affected license or licenses; except that pawnbrokers, check cashers and insurance premium finance companies shall comply with the provisions of N.J.A.C. 3:16-1.6, 3:24-1.5(h), or N.J.S.A. 17:16D-4, respectively. Licensees submitting a notice of change of address pursuant to this section shall submit their license or licenses for the issuance of the new license reflecting the change. Within 30 days of receipt of the notice of change of address and all documentation necessary to effectuate the change, the Commissioner shall issue a new license or licenses that reflect the change. With the exception of check cashers, while the licensee is awaiting the issuance of the license or licenses reflecting the new address, the licensee may continue in business, provided that all documentation is supplied, unless the licensee receives notice of suspension or revocation, or unless the licensing period if any, expires.

(b) Licensed lenders and each licensee referenced in N.J.A.C. 3:23-2.1(b) that changes its official e-mail address shall, within 10 days of the change, notify the Department in writing of such a change. The written notice shall be supplied on letterhead signed by an officer of the licensed entity and include the full name of the entity, its old e-mail address, its new e-mail address and the effective date of the change. The notice shall be sent to: New Jersey Department of Banking and Insurance, Division of Banking, Attention: Office of Consumer Finance, 20 West State Street, P.O. Box 040, Trenton, New Jersey 08625-0040.

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

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

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

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

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

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

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

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

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

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

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

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

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

Rewrote the section.

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

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

In the first sentence, substituted "referenced" for "reference", deleted "in Schedule A or 3:1-7.2(c)1 in Schedule B" following "N.J.A.C. 3:1-7.1(a)1", inserted "and" preceding "surrender", deleted "and pay to the Department an address change fee of \$75.00" following "affected license or licenses" and substituted "cashiers" for "cashiers"; deleted "and

fees" following "documentation" in the second sentence; and in the third sentence, substituted "With the exception of check cashers, while" for "While"; deleted "new" preceding "license or licenses" and inserted "reflecting the new address"; substituted "is" for "and fees are"; deleted "biennial" preceding "licensing period" and inserted "if any".

Amended by R.2008 d.178, effective July 7, 2008.

See: 40 N.J.R. 1399(a), 40 N.J.R. 3989(a).

Section was "Address change". Inserted designation (a); in (a), substituted "Licensed lenders and each" for "Every" and updated the N.J.A.C. references; and added (b).

3:1-7.5 Fees subject to review

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

Recodified from N.J.A.C. 3:1-7.4 by R.1989 d.407, effective July 3, 1989 (expires September 1, 1989).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Unless otherwise prescribed by a statute applicable to a particular license type, a licensee who files an annual report after the date due as set forth in (a) above and/or whose assessment payment is unpaid as set forth in N.J.S.A. 17:1C-36, shall be subject to a penalty in accordance with the following:

1. For late filing of the annual report, the penalty shall be not more than \$100.00 per day.

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

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

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

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

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

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

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

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

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

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

Rewrote the section.

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

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

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

Amended by R.2007 d.306, effective October 1, 2007.

See: 39 N.J.R. 2299(a), 39 N.J.R. 4111(a).

In the introductory paragraph of (a), deleted "\$50.00 per day" preceding the first occurrence of "penalty" and inserted "as specified in (c) below"; in the introductory paragraph of (c), substituted "an" for "a late"; deleted "and/or whose assessment is unpaid" following "report", and inserted "and/or whose assessment payment is unpaid as set forth in N.J.S.A. 17:1C-36"; and in (c)1, substituted "not more than \$100.00" for "\$50.00".

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

Deleted "After hours deposits", "Business day", "Check", "Deposit account", "Personal or family purposes", and "Time deposit".

3:1-15.2 Compliance with Federal law

Each banking institution shall comply with 12 C.F.R. 229 (Regulation CC) or with its successor regulation.

Recodified from N.J.A.C. 3:1-15.8 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 the section. Former N.J.A.C. 3:1-15.2, Availability of funds, repealed.

3:1-15.3 (Reserved)

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

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

Section was "Content of written disclosure statement".

3:1-15.4 (Reserved)

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

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

Section was "Initial written disclosure".

3:1-15.5 (Reserved)

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

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

Section was "Change in policy".

3:1-15.6 (Reserved)

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

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

Section was "Filing of written disclosure statements".

3:1-15.7 (Reserved)

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

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

Section was "Banking institutions' rights".

3:1-15.8 (Reserved)

Repealed 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. 3:1-15.8, Compliance with Federal Law, recodified to N.J.A.C. 3:1-15.2.

SUBCHAPTER 16. MORTGAGE LOANS, FEES, OBLIGATIONS

3:1-16.1 Definitions

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

"Application" means the document(s) or information, including the payment of any fees, that a particular lender or broker requires a borrower to submit for the purpose of having the lender or broker begin to process the loan document(s) to determine whether to grant or deny a mortgage loan.

"Borrower" means a natural person or persons who applies for credit or to whom credit is offered or extended primarily for personal, family or household purposes, and shall mean all co-borrowers, except that the lender may require the co-borrowers to designate one of the co-borrowers as the borrower for the purposes of these rules or, at the election of such natural person or persons, shall mean the attorney for the natural person or persons, but shall not mean other agents of the borrower.

"Borrower's agent" means a person or entity hired, contracted or requested by the borrower to supply information or documentation to the lender. A borrower's agents may include the seller, the borrower's attorney, depository institutions, title insurance companies, employer, spouse, surveyor, etc. A borrower's agents shall not include any person or entity hired, contracted or selected by the lender to perform a service or provide information or documentation to the lender, such as an appraiser, a credit reporting agency, the lender's attorney, the investor, etc.

"Broker" means any mortgage broker as that term is defined in N.J.S.A. 17:11C-2, or any lender when accepting and processing a mortgage loan application on behalf of a lender which will issue the commitment or loan denial.

"Business day" means any day on which the office or offices of the lender or broker are open to the public to provide financial services. A day shall not be regarded as a business day solely because the lender or broker conducts some transactions by appointment for particular customers on that day. A day may be a business day even though the lender or broker does not make entries into the books of the business on that day.

"Commitment" means a signed statement issued by a lender in which the lender promises to make a loan of specified terms to a specified borrower, and which is based on a satisfactory underwriting analysis of the appraisal, if an appraisal is required in connection with the loan, and a satisfactory underwriting analysis of the credit report, if a credit report is required in connection with the loan, except that any document indicating approval of a loan application which is contingent on the approval of a party to whom the lender seeks to sell the loan shall not be deemed a commitment.

"Current market yield" means:

1. In the case of a mortgage loan originated under a special program of, or committed for sale before expiration of the lock-in agreement to, a particular secondary market purchaser, the yield being sought by that purchaser for that loan; or

2. In the case of a mortgage loan not originated or committed as described in paragraph 1 above and not to be held in the lender's portfolio, the yield being sought, for the type of mortgage loan applied for, by the secondary market purchaser which purchased the highest dollar

volume of such mortgage loans from the lender during the preceding 12-month period; or

3. In the case of a mortgage loan to be held in the lender's portfolio, the average commitment rate offered by the lender, for the type of mortgage loan applied for, during the preceding 30-day period.

"Lender" means a State or Federally-chartered bank, savings bank, savings and loan association, credit union, or a mortgage banker or correspondent mortgage banker as defined in N.J.S.A. 17:11C-2.

"Lock-in agreement" means an agreement between the lender and the borrower whereby the lender guarantees until a specified date the availability of a specified rate of interest or specified formula by which the rate of interest will be determined and/or specific number of discount points, provided the loan is approved and closed by the specified date. If a specified date is not determinable, the lender may fulfill the requirement of this provision by setting forth with specificity the method by which the duration of the lock-in period will be determined. The term "lock-in agreement" does not include an agreement to fix the rate executed three or fewer calendar days before closing where appropriate disclosures have been made under the provisions of this subchapter.

"Mortgage loan" means any closed-end loan to a borrower which is secured by a first mortgage on real property located in New Jersey on which there is a one to six family dwelling, a portion of which may be used for nonresidential purposes.

"Promptly refund" or "return" means to refund or return to the borrower within seven calendar days following receipt of a written request for same from the borrower.

"Receipt" (or "received") means:

1. In the case of the lender, actual receipt (or actually received) at the office or by the person designated by the lender or broker as the place where or the person to whom the application or documentation must be submitted or, if no such place or person is designated, at the lender's or broker's principal office or any of its branch offices; or

2. In the case of a borrower:

i. Actual receipt (or actually received) where the document or correspondence is personally delivered to the borrower or sent to the borrower by registered or certified mail or by means of a commercial delivery service; or

ii. The third calendar day following deposit in the regular U.S. mail.

"Substantial fault of the borrower" means that the borrower or the borrower's agent:

1. Failed to provide in a timely manner information or documentation required by the lender;

2. Provided or omitted any information, in the application or subsequently, which upon verification proves to be significantly inaccurate causing the need for review or further investigation by the lender;

3. Failed to produce on or before the date specified by the lender all of the documentation specified in the commitment or closing instructions as being required for closing, which date may be less than seven calendar days following the date of receipt of the commitment or closing instructions; or

4. Failed to be ready, willing and able to close the loan or before the date specified by the lender.

5. For purposes of this section:

i. A person provides information or documentation "in a timely manner" if such information and documentation is received by the lender within seven calendar days after the person receives a request for same or within the time frame established by the lender if that time frame extends beyond seven calendar days after receipt of the request; and

ii. Information is "significantly inaccurate" if the correct information would, in the reasonable opinion of the lender, cause the borrower to be disqualified for the type of loan for which the borrower has applied or cause the secondary market source for which the loan is being originated to refuse to purchase the loan.

"Trust funds" means funds which are held in accordance with the terms of a written agreement between the lender and the borrower or seller, which provides that upon the occurrence of a specific condition or event the funds or a portion thereof shall be disbursed to the borrower or seller. Trust funds do not include escrows collected or held by the lender for taxes and insurance.

Amended by R.1989 d.332, effective June 19, 1989.

See: 21 N.J.R. 957(a), 21 N.J.R. 1668(b).

Definitions of "borrower" and "borrower's agent" added. "Current market yield" definition amended to include components specifically addressed to portfolio lenders and special loan programs for which there may be no identifiable secondary market.

Amended by R.1992 d.149, effective April 6, 1992 (Operative for Federally-chartered financial institutions is June 5, 1992).

See: 23 N.J.R. 2613(b), 24 N.J.R. 3(a), 24 N.J.R. 1380(a).

Revised definitions.

Administrative change.

See: N.J.R. May 4, 1992.

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

See: 33 N.J.R. 112(a), 33 N.J.R. 1087(a).

In "Broker", substituted "17:11C-2" for "17:11B-1d"; in "Lender", inserted "or correspondent mortgage banker" and substituted "17:11C-2" for "17:11B-1c".

3:1-16.2 Fees

(a) No lender shall charge a borrower any fees incident to the origination, processing or closing of a mortgage loan other than the following, except as otherwise authorized by State or Federal law, either explicitly or as interpreted by the appropriate regulator in official staff commentary, regulatory bulletins, or memoranda.

1. Application fee: Defined as a fee imposed by a lender or broker for accepting or processing a mortgage loan application. The application fee shall not be based upon a percentage of the principal amount of the loan or the amount financed;

2. Credit report fee, which shall not exceed the amount paid, or to be paid to the credit reporting agency by the party who receives the credit report directly from the credit reporting agency. The initial charge to the borrower may be based on a reasonable estimate provided that any amount in excess of the amount paid to the party providing the credit report is refunded to the borrower at or prior to closing;

3. Appraisal fee: If the appraisal is performed and delivered by a third party appraiser, the fee shall not exceed the amount paid, or to be paid, directly to the party performing and delivering the appraisal. If the appraisal is performed and delivered in-house, the fee shall approximate the usual, customary and reasonable fee for comparable appraisals by third party appraisers based on a survey of such fees charged by lenders to be conducted annually by the Department and published in the New Jersey Register. If the appraisal is performed by a third party appraiser and delivered by an appraisal management company, the fee charged by the lender shall not exceed the amount charged by the appraisal management company and shall approximate the usual, customary and reasonable fee for comparable appraisals by third party appraisers based on a survey of such fees charged by lenders to be conducted annually by the Department and published in the New Jersey Register. The initial charge to the borrower may be based on a reasonable estimate, provided that any amount in excess of the amount authorized above in this paragraph is refunded to the borrower at or prior to closing;

4. Commitment fee: Defined as a fee, exclusive of third-party fees, imposed by a lender as consideration for binding the lender to make a loan in accordance with the terms and conditions of its commitment and payable on or after acceptance of the commitment, except a lock-in fee charged pursuant to (a)5 below. The amount of any commitment fee shall be reasonably related to its purpose and may be based upon a percentage of the principal amount of the loan or the amount financed;

5. Lock-in fee: Defined as that portion of the commitment fee charged by a lender as the consideration for execution and fulfillment of the terms of the lock-in agreement. A lock-in fee may comprise all of the commitment fee. No lock-in fee shall be received by a lender prior to inception of the lock-in period;

6. Warehouse fee: Defined as a fee charged by a lender not to exceed the cost associated with holding the particular mortgage loan pending sale to a permanent investor and payable at closing. The fee shall be based on the actual holding period and warehouse rate and the initial coupon rate on the mortgage loan. No profit shall accrue to the lender from the fee;

7. Third party fees: Limited to the following fees paid or actually incurred by a lender on behalf of a borrower:

i. Overnight delivery, messenger, fax, and other special delivery fees, provided that the type of service is authorized by the borrower in advance in writing or the specific service is authorized by the borrower in writing;

ii. Flood certification fees;

iii. Pest inspection or certification fees;

iv. Final inspection fee, not to exceed the amount of the fee paid or actually incurred to a third party or, if the final inspection is done in-house, not to exceed the going charge for such inspections by third parties;

v. Outside counsels' fees as permitted by N.J.S.A. 46:10A-6;

vi. Certified check fees, not to exceed the amount of the fee paid or actually incurred by the lender to the issuer of the certified check or, if the lender issues the certified check, not to exceed its usual fee for providing this service to its customers;

vii. Update fees to update the borrower's credit report and appraisal, not to exceed the amount of the fee paid or actually incurred by the lender to the credit reporting agency or appraiser or, if the appraisal is done in-house, not to exceed the going charge for such updates by third parties;

viii. One-time mortgage insurance premiums or, if the premiums are not collected on a one-time basis, not more than one-year of premiums;

ix. Survey fees;

x. Recording fees which shall not exceed the statutory amount for recording the deed, mortgage, and note, and which shall not include any amount for recording an assignment of the mortgage;

xi. Title and title search fees, including title insurance premiums;

xii. Taxes;

xiii. Tax service fees;

xiv. Radon test fees; and

xv. Fees not included among the above third party fees may be charged provided that prior written approval is obtained from the Department. The Department will only approve third party fees which are of benefit to the borrower and represent a cost not associated with the lender's overhead. Accordingly, the Department will not approve fees for document preparation, processing, underwriting, file updates, lender reviews, copying, funding, and miscellaneous.

8. Discount points or fractions thereof: A discount point is defined as an amount of money equal to one per-

cent of the principal amount of the loan and payable only at closing.

9. A service fee not to exceed \$25.00 to cancel the mortgage, providing that the borrower has received prior written notice of the fee required by the lender, and providing further that if the lender collects the service fee at the time of the mortgage transaction and transfers the servicing rights prior to cancellation, the lender shall refund the service fee to the borrower.

(b) If a lender or broker uses a term for a fee which is different than a term listed in (a) above, the lender or broker shall be able to document to the Department that the fee fits the definition and description of a permissible fee listed above, and that the fee functions accordingly.

(c) This section does not restrict the imposition of fees after the closing of a mortgage loan, such as late fees and variable-to-fixed rate conversion fees.

(d) The Commissioner is authorized to order any person to make restitution for fees charged which are impermissible or improperly charged, or to make refunds when required, under these rules. Nothing in this subsection is deemed to set a limit on the amount of fees a lender may charge on a mortgage loan.

Amended by R.1992 d.149, effective April 6, 1992 (Operative for Federally-chartered financial institutions is June 5, 1992).

See: 23 N.J.R. 2613(b), 24 N.J.R. 3(a), 24 N.J.R. 1380(a).

Amended by R.1993 d.423, effective September 7, 1993.

See: 25 N.J.R. 2625(b), 25 N.J.R. 4063(b).

Amended by R.1994 d.559, effective November 7, 1994.

See: 26 N.J.R. 3234(a), 26 N.J.R. 4347(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 (a).

Amended by R.2002 d.394, effective December 16, 2002.

See: 34 N.J.R. 814(a), 34 N.J.R. 4429(a).

Rewrote (a)3.

Public Notice: Appraisal Fee Survey.

See: 36 N.J.R. 2559(a).

Public Notice: Appraisal Fee Survey.

See: 37 N.J.R. 907(a).

Public Notice: Appraisal Fee Survey.

See: 38 N.J.R. 845(a).

Public Notice: Appraisal Fee Survey.

See: 41 N.J.R. 815(a), 3850(a).

Case Notes

Licenses of mortgage bankers revoked. N.J. Dept. of Banking v. Whitestone Mortgage, 92 N.J.A.R.2d (BKG) 1.

3:1-16.3 Application process

(a) Before a lender or broker accepts any application fee in whole or in part, any credit report fee, appraisal fee or any fee charges as reimbursement for third party fees, the lender or broker shall make written disclosure to the borrower (which disclosure may be contained in the application) as required by this section or N.J.A.C. 3:1-16.10, respectively, setting forth:

1. A description and the amount of each such fee;

2. Whether all or any part of such fees are refundable;

3. The terms and conditions for the refund, if all or any part of the fees are refundable, provided that, where applicable, the terms and conditions may be disclosed by making reference to these rules with proper citation;

4. A realistic estimate of the number of calendar days required to issue a commitment following receipt of such fees by the lender. If the lender subsequently determines that the estimate is unrealistic, it may return the application and all fees paid and offer the borrower the opportunity to reapply subject to a new estimate;

5. The name or title of a person within the lender's organization to whom the borrower may address written questions, comments, or complaints and who will be required to promptly respond to such inquiries; and

6. For correspondent mortgage bankers, a statement indicating that the licensee is a correspondent mortgage banker and as such does not hold mortgage loans or service mortgage loans for more than 90 days in the regular course of business.

(b) The disclosures required in (a) above shall be acknowledged in writing by the borrower and maintained by the lender or broker and a copy of such acknowledgment shall be given to the borrower.

(c) Except where explicitly authorized to return an application, or for other reasons consistent with due diligence, a lender is obligated to process an application submitted to it and to exert conscientious effort to either grant or deny the application within the realistic estimate disclosed as required in (a) above.

(d) Not later than three business days after the lender receives the borrower's application, or before closing of the loan, whichever is earlier, the lender shall provide the borrower with a good faith estimate as a dollar amount or range of each fee for a settlement service which the borrower is likely to incur.

1. For the purpose of this subsection, "settlement service" shall mean a service related to the origination, processing, or closing of a mortgage loan, and for which the lender anticipates the borrower will pay a fee at or before settlement based upon the lender's general experience.

2. With respect to the settlement service fees imposed on a borrower by the lender (and not by third parties), the lender shall indicate which, if any, of such fees are refundable in whole or in part and the terms and conditions for such refund.

3. Good faith estimates of fees for settlement services which are made pursuant to, and conform to, Federal Regulation X shall satisfy the disclosure requirement of this subsection, provided that the lender also makes the disclosures required by (d)2 above.

(e) The borrower may, without penalty or responsibility to pay additional fees, withdraw an application at any time prior to acceptance of a commitment. Upon such withdrawal, the lender or broker shall be responsible to refund to the borrower only those fees to which the borrower may be entitled pursuant to the terms set forth in the written disclosure required by (a) above, except that:

1. Where the lender or broker has failed to provide the borrower with the written disclosure required by (a) above, the lender or broker shall promptly refund to the borrower all funds paid to the lender or broker;

2. Where the lender has failed to issue a commitment or justifiable credit denial and its realistic estimate of the time needed to do so has expired through no substantial fault of the borrower and the borrower has withdrawn his or her application as a result, the lender shall promptly refund to the borrower all funds paid to the lender;

3. Where an application is denied, or a commitment is issued on terms and conditions substantially dissimilar to those for which the application was submitted and which

are unacceptable to the borrower, for reasons (other than bona fide underwriting considerations) which the lender knew or should have known at the time of application from the facts disclosed on the face of the application, the lender shall promptly refund to the borrower all funds paid to the lender. For purposes of this paragraph, a commitment is issued on terms and conditions which are "substantially dissimilar" to those for which the application was submitted if the interest rate, discount points or commitment fee as set forth in the commitment is higher than, or the term of the loan as set forth in the commitment is different than, the corresponding terms of the loan for which application was made.

Amended by R.1992 d.149, effective April 6, 1992 (Operative for Federally-chartered financial institutions is June 5, 1992).

See: 23 N.J.R. 2613(b), 24 N.J.R. 3(a), 24 N.J.R. 1380(a).

Amended by R.1993 d.423, effective September 7, 1993.

See: 25 N.J.R. 2625(b), 25 N.J.R. 4063(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)6, inserted "correspondent" preceding references to mortgage bankers throughout and deleted "non-servicing" throughout.

3:1-16.10 Special rules for brokers

(a) No broker shall charge or collect from a borrower on its own behalf any fees other than an application fee and discount points or fractions thereof. A broker may collect a fee on behalf of a lender provided that the entire amount of the fee is transmitted to the lender.

(b) Before accepting any loan application, the broker shall make written disclosure to the borrower in a separate service agreement setting forth:

1. The amount of the broker's application fee, if any;
2. Whether and under what circumstances all or any part of the broker's application fee may be refundable;
3. The amount of any discount points which are payable to the broker for its services;
4. A statement advising of the provisions of (c) below;
5. A detailed listing of the specific services that will be provided or performed by the broker, together with a statement that all fees which are payable to the broker will be refunded if the broker does not perform the services indicated; and
6. Whether the broker places loans exclusively with any three or fewer lenders and, if so, the name(s) of such lender(s).

(c) No broker may execute a lock-in agreement or issue a commitment on its own behalf or on behalf of any lender or guarantee acceptance into any particular loan program or promise any specific loan terms or conditions.

(d) No broker may accept a lender's lock-in agreement from a borrower or any lock-in fee in connection therewith unless the lock-in agreement contains all of the disclosures required in N.J.A.C. 3:1-16.4(a).

(e) The disclosures required in (b) above shall be acknowledged in writing by the borrower and maintained by the broker and a copy of such acknowledgement shall be given to the borrower.

Amended by R.1992 d.149, effective April 6, 1992 (Operative for Federally-chartered financial institutions is June 5, 1992).
See: 23 N.J.R. 2613(b), 24 N.J.R. 3(a), 24 N.J.R. 1380(a).
Revised (a) and (b).
Old section 16.10 "Compliance with Federal laws" was repealed.

Case Notes

Mortgage was subject to Mortgage Bankers and Brokers Act (MBBA). *Trico Mortg. Co., Inc. v. Forero*, 275 N.J.Super. 91, 645 A.2d 793 (A.D.1994), certification denied 139 N.J. 186, 652 A.2d 174.

3:1-16.11 Operative date

This subchapter shall become operative on July 16, 1989, and shall apply to all applications taken on or after that date. The amendments to this subchapter which were adopted effective April 6, 1992 shall take effect immediately

on that date, except that such amendments shall not apply to Federally-chartered financial institutions until June 5, 1992.

Amended by R.1992 d.149, effective April 6, 1992 (operative for Federally-chartered financial institutions is June 5, 1992).
See: 23 N.J.R. 2613(b), 24 N.J.R. 3(a), 24 N.J.R. 1380(a).
Recodified with revisions from 3:1-16.12. Old section 3:1-11 was "Special rules for brokers."

3:1-16.12 (Reserved)**SUBCHAPTER 17. AUTOMATED TELLER MACHINES (ATM)****3:1-17.1 Definitions**

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

"Automated teller machine" means an automated facility or terminal owned or rented by a bank, savings bank or savings and loan association at which a customer may do one or more of the following:

1. Make deposits;
2. Obtain disbursements from a deposit or loan account; or
3. Transfer money from a deposit or loan account.

Included within this definition is a communication terminal facility as defined in N.J.S.A. 17:9A-1(17), and a remote service unit as defined in N.J.S.A. 17:12B-8(e).

"Bank," "savings bank," "savings and loan association" and "credit union" means State chartered institutions having a branch office or branch offices in New Jersey, unless otherwise indicated.

"Foreign financial institution" means a State or Federally chartered bank, savings bank, savings and loan association or credit union which has no principal or branch offices in this State.

"Sharing access" means the ability of financial institutions, other than the institution owning or renting the automated teller machine, to allow their customers to use the machine to consummate transactions, make deposits, initiate inquiries or otherwise conduct business with such financial institutions.

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 "Automated teller machine", substituted "facility" for "branch office" in the closing paragraph.

3:1-17.2 On site location

A bank, savings bank or savings and loan association may establish, maintain, or operate an automated teller machine or machines on the premises, or within 200 feet of the premises, or its principal office or any of its branch or auxiliary offices, without filing a notice with the Department. The 200 feet shall be measured from the portion of the property line of the office or branch closest to the automated teller machine.

Amended by R.1996 d.483, effective October 7, 1996.
See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).

3:1-17.3 Off site location

Before establishing an automated teller machine more than 200 feet from its premises, a bank, savings bank or savings and loan association must file written notice to Commissioner containing the location of the proposed automated teller machine.

Amended by R.1996 d.483, effective October 7, 1996.
See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).

3:1-17.4 Interstate transactions

(a) A customer having an account in a foreign financial institution may make deposits to that account from an automated teller machine located in New Jersey.

(b) A foreign bank or foreign association that accepts applications for loans through an automated teller machine, automated loan machine, computer terminal or any other electronic device located in this State shall be deemed to be transacting business as that term is used in N.J.S.A. 17:9A-316 and 17:12B-214, in violation of those statutes, except that this section shall not apply to in-person contact over a telephone, nor to drawing on a pre-existing line of credit.

Recodified from 3:1-17.5 by R.1996 d.483, effective October 7, 1996.
See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).

Former section, "Shared ownership", repealed.
Amended by R.2001 d.112, effective April 2, 2001.
See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Deleted (a) and (b); recodified former (c) as new (a); inserted new (b).

3:1-17.5 (Reserved)

Recodified to 3:1-17.4 by R.1996 d.483, effective October 7, 1996.
See: 28 N.J.R. 2661(a), 38 N.J.R. 4417(b).

Section was "Interstate access".

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

3:1-18.1 Definitions

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

"Back office operation" shall mean the following activities:

1. Data processing;
2. Recordkeeping;
3. Accounting;
4. Check and deposit sorting and posting;
5. Computation and posting of interest;
6. Clerical, computer, and statistical activities which are similar to the activities in paragraphs 1 through 5 above;
7. Producing and mailing correspondence and other documents;
8. Maintaining credit balances; and
9. Such other similar activities that the Commissioner approves.

"Back office operation" shall not mean:

1. Making loans;
2. Making underwriting decisions; and
3. Accepting deposits.

"Department" shall mean the New Jersey Department of Banking and Insurance.

"Foreign association" shall mean an association chartered by the Federal government or another state which has no principal or branch offices in this State.

"Foreign bank" shall have the meaning which that term has in N.J.S.A. 17:9A-1.

"Foreign financial institution" shall include a foreign bank and a foreign association.

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: 32 N.J.R. 213(a), 33 N.J.R. 1087(a).
Amended "Back office operation"; added "Department".

3:1-18.2 Registration requirement

Prior to engaging in back office operations in this State, a foreign financial institution shall register a service facility with the Department.

Amended by R.1996 d.483, effective October 7, 1996.
See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).

3:1-18.3 Registration process

(a) A foreign financial institution may request to register a service facility by submitting to the Department the following items: