

2. The Department shall multiply the percentage for each licensee regulated by Consumer Finance times the expenses remaining after the total assessments for credit unions and the base assessments of licensees have been deducted from the total amount of expenses for Consumer Finance for the preceding fiscal year.

3. The volume assessment, if any, for each entity regulated by Consumer Finance shall be added to their previously determined base assessment.

4. For the purpose of determining the total assessment for licensees under the Licensed Lenders Act, N.J.S.A. 17:11C-1 et seq., licensees with more than one authority shall pay a separate base assessment for each separate authority, which shall be added to a single volume assessment, if any, based on the aggregate dollars loaned or its equivalent for all their authorities.

(d) A regulated entity that ceases business or is acquired shall be responsible for the payment of the base assessment and any volume assessment for that calendar year. An entity that ceases business or is acquired shall pay all assessments due and owing and prepay the base assessment for the year of the discontinuance by paying the amount of the most recently billed base assessment within 15 days after ceasing business or upon being acquired. Adjustments to the base assessment, if any, and the final volume assessment for the year of discontinuance will be billed in the year following the discontinuance.

## SUBCHAPTER 5. MAXIMUM TOTAL OF ASSESSMENTS

### 3:5-5.1 Maximum assessment

(a) The total amount assessable to regulated entities in any fiscal year for the purposes of this subchapter shall not exceed the lesser of:

1. The total amount of expenses incurred by the State in connection with the administration of the special functions of the Division pursuant to N.J.A.C. 3:3-5.3 during the preceding fiscal year as ascertained by the Director of the Division of Budget and Accounting in the Department of the Treasury, on or before August 15 in each year, and certified to the Commissioner by category; or

2. .00015 times the sum of:

i. The total assets for State-chartered banks, savings banks, and savings and loan associations for the preceding calendar year; plus

ii. The total average loan volume for residential mortgage loans closed by licensed lenders pursuant to the New Jersey Licensed Lenders Act, P.L. 1996, c. 157

(N.J.S.A. 17:11C-1 et seq.) for the three preceding calendar years.

## SUBCHAPTER 6. OBJECTION TO ASSESSMENT

### 3:5-6.1 Time to object and decision on objections

(a) Within 15 days after the date of mailing a statement of the assessment as provided in N.J.A.C. 3:5-3.1(b), a regulated entity may file objections to its assessment with the Commissioner. All such objections must be filed in writing.

(b) Upon being filed, the validity of such objections shall be determined by the Commissioner in accordance with N.J.S.A. 17:1C-36 and 37.

(c) If, after having determined the validity of an objection, the Commissioner finds any part of the assessment against the objecting regulated entity excessive, erroneous, unlawful or invalid, he or she shall transmit to the objector, by registered mail, his or her findings and an amended statement of the assessment in accordance with those findings, which shall have the same force and effect as an original statement of the assessment. If the Commissioner finds the entire statement of the assessment unlawful or invalid, he or she shall notify the objector, by registered mail, of that determination, and the original statement of the assessment shall be null and void. If the Commissioner finds that the statement as rendered is neither excessive, erroneous, unlawful nor invalid, in whole or in part, he or she shall transmit notice thereof to the objector by registered mail.

## SUBCHAPTER 7. COLLECTION; NOTICE OF DELINQUENCY

### 3:5-7.1 Unpaid assessments

(a) If any regulated entity to which a statement of the assessment has been mailed fails or refuses to pay the amount within 30 days of the date of mailing, or fails to file with the Commissioner objections to the statement of the assessment as provided in N.J.A.C. 3:5-6, the Commissioner shall transmit to the State Treasurer a certified copy of both the statement of the assessment and the notice of the neglect or refusal of the regulated entity to pay the amount thereof, and at the same time shall mail by registered mail to the entity a copy of the statement of the assessment and the notice of the neglect or refusal transmitted to the State Treasurer.

(b) If a statement of the assessment against which objections are filed is not paid in full within 30 days after the date of mailing to the objector of notice of a finding that the objections have been disallowed, or if an amended statement of the assessment is not paid within 30 days of the date a copy thereof is mailed by registered mail to the objector, the Commissioner shall give notice of the delinquency to the

State Treasurer and to the objector, and the State Treasurer shall proceed to make the collection.

(c) In accordance with N.J.S.A. 17:1C-40, no action or proceeding shall be maintained in any court for the purpose of restraining or delaying the collection or payment of a statement of the assessment rendered in accordance with the provisions of this chapter and N.J.S.A. 17:1C-33 et seq.

(d) No action for recovery of an amount paid shall be maintained in any court unless objections have been filed with the Commissioner. In an action for recovery of any payments, plaintiff may raise any relevant issue of law, but the Commissioner's findings of fact shall be presumptive evidence of the facts therein stated.

### 3:5-7.2 Collection; sale of goods

In accordance with N.J.S.A. 17:1C-43 within 10 days after receipt of the notice and certified copy of the statement of the assessment, the State Treasurer shall proceed to collect the amount stated to be due, with legal interest, by seizure and sale of any goods or chattels, including stocks, securities, bank accounts, surety bonds, realty, evidences of debt and accounts receivable belonging to the regulated entity anywhere within the State. The State Treasurer shall not seize any goods or chattels held by the regulated entity on behalf of another.

### 3:5-7.3 Additional remedy

As provided in N.J.S.A. 17:1C-44 as an additional remedy, the State Treasurer may issue a certificate to the Clerk of the Superior Court that a regulated entity is indebted under these rules in an amount stated in the certificate. The clerk shall immediately enter upon his record of docketed judgments the name of the regulated entity, and of the State, the amount of debt so certified, and the date of the entry. The entry shall have the same force and effect as the entry of a docketed judgment in the Office of the Clerk, and the State Treasurer shall have all the remedies and may take all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in a civil action, but without prejudice to the regulated entity's right of appeal.

## SUBCHAPTER 8. REGULATED ENTITIES EXEMPT FROM FEES AND CHARGES; EXCEPTIONS

### 3:5-8.1 Fees and exemptions

(a) Notwithstanding any law or regulation to the contrary, a regulated entity paying the amounts assessed to it in statements of the assessment made pursuant to N.J.A.C. 3:5-3 shall be exempt from all fees or charges imposed by the Division pursuant to any other provision of law or regulation, except for:

1. Charter fees;
2. Application fees for licenses;
3. Mortgage solicitor registration application fees;
4. Fees for entry by a foreign depository institution whether from another state of the United States or from another country into New Jersey for branch, trust or other activities;
5. Fees charged under the Governmental Unit Deposit Protection Act, P.L. 1970, c. 236 (N.J.S.A. 17:9-41 et seq.);
6. Fees charged any entity not chartered, licensed or registered by this State, including, but not limited to, activities conducted by foreign banks pursuant to section 316 of P.L. 1948, c. 47 (N.J.S.A. 17:9A-316) or foreign associations pursuant to section 214 of P.L. 1963, c. 144 (N.J.S.A. 17:12B-214);
7. Fees charged qualified corporations authorized pursuant to section 213 of P.L. 1948, c. 67 (N.J.S.A. 17:9A-213) to perform either registrar and transfer agent activities or activities permitted for qualified educational institutions; and
8. Such other fees as may be specified as not exempt pursuant to N.J.S.A. 17:1C-33 (P.L. 2005, c. 199) and any amendments thereto.

(b) Nothing in this section shall exempt a regulated entity from paying any fine or penalty imposed by the Commissioner for a violation of a statute or regulation.

(c) Except as provided in paragraph (1) of subsection d. of section 7 of the New Jersey Home Ownership Security Act of 2002, P.L. 2003, c. 64 (N.J.S.A. 46:10B-28), all fees, charges, fines and penalties as described in (a) and (b) above shall be remitted to the State Treasurer for deposit into the General Fund, and those fees, charges, fines and penalties shall not be part of the assessment funding mechanism or considered in the calculation pursuant to N.J.A.C. 3:5-5.

## SUBCHAPTER 9. IMPROPER REPORTING OF INFORMATION TO THE DEPARTMENT

### 3:5-9.1 Penalty for improper reporting

(a) A depository institution that submits figures on assets, deposits or any other factor used by the Department to compute the depository institution's assessment that are substantially or materially in error shall be liable for an administrative penalty not to exceed \$10,000 for each submission that contains substantially or materially incorrect information.

(b) A licensee that submits figures on loan volume, number of branches, or any other factor used by the

Department to compute the licensee's assessment that are substantially or materially in error shall be liable for an administrative penalty not to exceed \$10,000 for each submission that contains substantially or materially incorrect information.

(c) In addition to any monetary penalty that may be imposed against a licensee pursuant to (b) above, the Commissioner may take action to revoke, suspend or refuse to renew the license of a licensee that submits substantially or materially erroneous figures. The suspension, revocation or refusal to renew a license shall be in addition to any monetary penalty imposed pursuant to (b) above.

(d) The administrative penalty authorized pursuant to this subsection may be recovered in a summary proceeding in accordance with the Penalty Enforcement Law of 1999, P.L. 1999, c. 274 (N.J.S.A. 2A:58-10 et seq.). Pursuant to N.J.S.A. 17:1C-48d, a willful violation of this section shall be considered a crime of the third degree.

#### SUBCHAPTER 10. TRANSITION TO DEDICATED FUNDING

##### **3:5-10.1 Credits and elimination of examination bills**

(a) In calculating the initial assessments to be imposed pursuant to this chapter:

1. Banks, savings banks and savings and loan associations shall be given prorated credit for unused portions of assessments currently collected under N.J.A.C. 3:1-6 and N.J.S.A. 17:1-8, if any; and

2. Licensees shall be given prorated credit for unused portions of licensing periods, if any.

(b) The Department shall not issue an examination bill for an examination that has not been completed by June 30, 2006. For purposes of this transition period, an examination shall be deemed to be complete when the examination team concludes its examination activities on site at the institution. In cases where the examination team has concluded its activities on site at the institution by June 30, 2006 but the Department has not completed the processing and review of the examination report by that date, the bill issued for such an examination shall not include any charges for work performed after June 30, 2006 which was required for the Department to complete the processing and review of the examination report and/or to meet with the management or board of the regulated entity with regard to the examination findings.