

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, 17:16L-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.

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 Charter conversions
- 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 through 3:1-6.4 (Reserved)
- 3:1-6.5 Annual review
- 3:1-6.6 Examination charge and per diem rate
- 3:1-6.7 Failure to pay fees or examination charges

SUBCHAPTER 7. MISCELLANEOUS

- 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 and official e-mail address change
- 3:1-7.5 Fees subject to review
- 3:1-7.6 Penalty for late filing of annual reports and/or late payment of assessments

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 or 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 through 3:1-16.12 (Reserved)

5. A financial institution may make a mortgage loan secured by real property which is subject to an existing mortgage loan or loans held by another financial institution and such mortgage loan shall be subject to all of the restrictions, limitations and conditions provided herein.

6. A financial institution may reduce the rate of interest on mortgage loans secured by real property within a disaster area.

7. A financial institution may extend the term within which any mortgage loan must be amortized or paid for additional periods of time but in no event shall such an extension exceed a period of time twice the term of the original mortgage loan.

Amended by R.1991 d.48, effective February 4, 1991.
See: 22 N.J.R. 3425(a), 23 N.J.R. 294(b).
Corrected internal cites.

3:1-3.4 Preliminary requirements

(a) Before any financial institution may exercise or use any of the emergency powers as enumerated in this subchapter, said financial institution must comply with the following requirements:

1. It must obtain and file, a certification to be signed by an appraiser as required by N.J.A.C. 3:1-8.2, which shall set forth the amount and extent of the damage or destruction sustained to the real property which is the security of any existing or proposed mortgage loan, a finding that such damage or destruction was caused by the disaster, and the amount required to pay for the cost of any construction, rehabilitation, alteration, repair or improvement of such real property.

2. It must obtain from the borrower or mortgagor a sworn statement which shall set forth the proceeds of any mortgage loan shall be used to pay the cost of construction, rehabilitation, alteration, repair or improvement of the real property.

3. Such certifications and statements shall be kept on file with the financial institution.

(b) In addition to the requirements enumerated in (a)1 and 2 above, a financial institution, prior to the exercise or use of any emergency mortgage powers, shall undertake and complete any and all investigations, appraisals and other precautions which it would ordinarily require in making a mortgage loan not otherwise provided by N.J.S.A. 17:2A-1 et seq., and this Subchapter.

Amended by R.1991 d.48, effective February 4, 1991.
See: 22 N.J.R. 3425(a), 23 N.J.R. 294(b).
Corrected internal cites.

Amended by R.1996 d.168, effective April 1, 1996.
See: 28 N.J.R. 3(a), 28 N.J.R. 1830(a).

In (a)1 deleted requirement for signature of second person.

3:1-3.5 Limitations

(a) Notwithstanding any other provision of this subchapter, no financial institution shall exercise or use any emergency mortgage powers as enumerated herein unless it complies with the following limitations:

1. The amount of funds which a bank may invest or advance in any mortgage loan made pursuant to this subchapter shall not exceed 10 percent of its aggregate capital stock, surplus and undivided profits accounts.

2. The amount of funds which a savings bank may invest or advance in any mortgage loan made pursuant to this subchapter shall not exceed 10 percent of its surplus account.

3. The amount of funds, which a savings and loan may invest or advance in any mortgage loan made pursuant to this subchapter shall not exceed one percent of capital.

4. The amount of funds, which an insurance company may invest or advance in any mortgage loan made pursuant to this subchapter shall not exceed that permitted under the insurance laws of this State.

(b) No financial institution investing or advancing any funds in connection with mortgage loans made pursuant to this subchapter may exclude the principal balances owing thereon in determining the aggregate amount of its assets that it may invest in all mortgage loans as prescribed by applicable statutes.

(c) No financial institution shall be authorized or permitted to exercise or use any emergency mortgage power enumerated herein in connection with any real property or improvement thereon not destroyed, damaged or materially affected by the disaster itself.

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

SUBCHAPTER 4. GOVERNMENTAL UNIT DEPOSIT PROTECTION

3:1-4.1 Public depository; acceptance of deposits

No deposit may be accepted from a governmental unit by any public depository unless the public depository secures such deposit in accordance with the Governmental Unit Deposit Protection Act, N.J.S.A. 17:9-41 et seq., (hereinafter called the Act).

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

Added N.J.S.A. reference.

3:1-4.2 Filing of a certified statement by public depository

Every public depository shall file with the Commissioner, on forms furnished by the Department, a certified statement

signed by its president or vice president and one other officer indicating the average daily balance or the alternate average balance as provided in the Act of either collected or uncollected public funds on deposit during the six month period ending on the next preceding valuation date (June 30 or December 31 of each year). The statement shall include information as to the capital funds of the depository and detailed information, including location pertaining to the eligible collateral pledged to secure public funds. The statement shall be filed as of June 30 and December 31 of each year and at such other times as the Commissioner may require. The public depository shall remit to the Department with each such statement a filing fee of \$25.00.

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.1991 d.186, effective April 1, 1991.

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

Added filing fee of \$25.00.

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

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

Substituted "Department" for "Commissioner" preceding ", a certified statement".

3:1-4.3 Certified statement; time for filing

A certified statement required to be filed pursuant to the Act or this subchapter shall be filed with the Commissioner within 20 days of the date required by law, regulation or the Commissioner.

3:1-4.4 Computation of public funds

(a) A public depository which has public funds on deposit for more than 15-calendar days but less than the full six-month period preceding the semiannual valuation date shall compute the aforesaid average based on the actual number of calendar days that public funds were on deposit in said depository and such figures shall be its average for the reporting period. In the event a public depository has no public funds on deposit on a valuation date, it shall indicate same on the certified statement and compute the aforesaid average, if any, for the reporting period. If a public depository holds public funds on deposit for less than 15-calendar days during a reporting period, it need not compute the aforesaid average for that period.

(b) While a public depository is not required to have collateral pledged if it does not have public funds on deposit on a valuation date, it is required to use the aforesaid average, if any, computed on the preceding valuation date as its basis for securing public deposits should it resume accepting such deposits during the six-month period subsequent to the preceding valuation date. If a public depository does not maintain its pledge of collateral as a result of not having public funds on deposit on a valuation date, it shall file a certified statement with the Commissioner disclosing same at the time it resumes accepting deposits. If the public depository maintains its pledge based on the said reported average notwithstanding that it has no balance on a valuation date, it may resume accepting public funds without filing an additional certified statement.

(c) If a public depository had no average daily balance of public funds on deposit at the time of the last valuation date, it shall compute the average daily balance of the public funds subsequently acquired for the first 15-calendar days following acquisition of such deposits and submit a certified statement to the Commissioner disclosing such average and such other information as may be required in the certified statement. If the aforesaid 15-day period overlaps a valuation date, the period shall commence on the first date deposits are received.

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

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

3:1-4.5 Public funds exceeding 75 percent of capital funds

A public depository which receives and holds on deposit for any period exceeding 15-calendar days public funds of a governmental unit or units which in the aggregate exceed 75 percent of the capital funds of the public depository as reported on the last valuation date shall file a certified statement with the Commissioner indicating the amount of such excess and a description of the eligible collateral pledged to secure said excess. Such collateral shall have a market value at least equal to the amount of such excess and shall be in addition to the five percent security required to be maintained and as noted in the last semi annual certified statement. For purposes of this section, the capital funds of a public depository located in New Jersey which has branches located outside New Jersey shall be its total capital funds multiplied by the percentage of deposits located in New Jersey to total deposits of the depository.

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.1994 d.558, effective November 7, 1994.

See: 26 N.J.R. 2832(a), 26 N.J.R. 4347(a).

3:1-4.6 Retention of certified statement

A public depository shall retain copies of its certified statement as filed with the Commissioner and any supporting workpapers for a period of three years. Such statements and workpapers shall be made available to examiners when the public depository is examined by the Commissioner or any supervising Federal agency.

3:1-4.7 Scope of terms surplus and undivided profits

(a) As included within the definition of capital funds in N.J.S.A. 17:9-41:

1. The terms "surplus" and "undivided profits" shall, in the case of a State bank or national bank, include 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 changes; 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.

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 Commissioner 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 (Reserved)

Repealed by R.2006 d.233, effective June 19, 2005.

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

Section was "Definitions".

3:1-6.2 (Reserved)

Repealed by R.2006 d.233, effective June 19, 2005.

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

Section was "Assessments".

3:1-6.3 (Reserved)

Repealed by R.2006 d.233, effective June 19, 2005.

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

Section was "Payment dates".

3:1-6.4 (Reserved)

Repealed by R.2006 d.233, effective June 19, 2005.

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

Section was "Effective date".