

TITLE 3

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF BANKING

CHAPTER 1

GENERAL PROVISIONS

Authority

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

Source and Effective Date

R.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). See, also, section annotations.

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 Modification of order and/or rehearing
- 3:1-2.23 Fees; banks and savings banks
- 3:1-2.24 Fees, State associations
- 3:1-2.25 Relaxation or dispensation of requirements of subchapter
- 3:1-2.26 (Reserved)

SUBCHAPTER 3. MORTGAGE LOANS IN DISASTER AREAS

- 3:1-3.1 Definitions
- 3:1-3.2 Duties of Commissioner
- 3:1-3.3 Emergency mortgage powers exercisable by financial institutions
- 3:1-3.4 Preliminary requirements
- 3:1-3.5 Limitations

SUBCHAPTER 4. GOVERNMENTAL UNIT DEPOSIT PROTECTION

- 3:1-4.1 Public depository; acceptance of deposits
- 3:1-4.2 Filing of a certified statement by public depository
- 3:1-4.3 Certified statement; time for filing
- 3:1-4.4 Computation of public funds
- 3:1-4.5 Public funds exceeding 75 percent of capital funds
- 3:1-4.6 Retention of certified statement
- 3:1-4.7 Scope of terms surplus and undivided profits
- 3:1-4.8 Substitution of collateral
- 3:1-4.9 Agreement or resolution; custodial depository and Commissioner
- 3:1-4.10 Agreement or resolution; public depository and custodial depository
- 3:1-4.11 Security; State and other public deposits
- 3:1-4.12 Records maintained by Commissioner; eligibility
- 3:1-4.13 Eligible collateral

SUBCHAPTER 5. (RESERVED)

SUBCHAPTER 6. FEES

- 3:1-6.1 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 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 Operative date
- 3:1-16.12 (Reserved)

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

"Individual" means a natural person.

"Newly-chartered institution" means an institution which has been open to the public for business fewer than three years.

"Out-of-State association" means a savings and loan association or building and loan association insured by the Federal Deposit Insurance Corporation and chartered under the laws of a state other than New Jersey, but not as a bank as defined in 12 U.S.C. § 1813(a)(2).

"Out-of-State bank" means a state bank, as defined in the Federal Deposit Insurance Act, 12 U.S.C. § 1813(a)(2), which is chartered under the laws of a state other than New Jersey.

"Savings and loan association" means a New Jersey chartered savings and loan association, and shall include a capital stock association, and a mutual association.

"Savings bank" means a New Jersey chartered savings bank, and shall include a capital stock savings bank and a mutual savings bank.

"Sufficient compliance" means that the depository has received a currently applicable Community Reinvestment Act, 12 U.S.C. §§ 2901 et seq., (CRA) rating of "satisfactory or better" by the applicable Federal regulatory agency. A depository which has a currently applicable CRA rating by the applicable Federal regulatory agency of "needs to improve" shall be considered to be in sufficient compliance if it has entered into an agreement with the Federal agency which is intended to improve its CRA rating, and the Department has verified that the institution has taken reasonable steps to comply with the agreement.

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

"Well capitalized" means a depository that exceeds the required minimum level for each relevant capital measure, as that term is defined in 12 U.S.C. § 1831 or its successor section.

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

Deleted "executed indicia of title" as an acceptable document.
Repeal and New Rule, R.1992 d.483, effective December 7, 1992.
See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Section was "Applications; acceptance".
Amended by R.1996 d.483, effective October 7, 1996.
See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).
Amended by R.2001 d.112, effective April 2, 2001.
See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Added "Accepted", "Adequately managed", "Newly-chartered institution" and "Well capitalized"; in "Sufficient compliance", inserted the U.S.C. reference; substituted "means" for "shall mean" throughout.
Amended by R.2002 d.38, effective February 4, 2002.

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

Inserted "Fully funded reserve".

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

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

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

3:1-2.2 Charter applications

(a) Every applicant for a depository charter is required to file with the Department the following data in addition to the statutorily required certification of incorporation and affidavits required by N.J.A.C. 17:9A-9, 17:12B-14 and 17:12B-246:

1. An economic feasibility study delineating the proposed trade area to be served by the applicant, as well as yearly deposit estimates for the first five years of operation;
2. A pro forma balance sheet and profit and loss statement which shall project the financial condition and net income or loss of the depository on an annual basis for a period of five years and shall indicate the anticipated break-even date, and a business plan for the depository;
3. Departmental forms completed by each incorporator and prospective officer and director containing biographical and financial information, and authorizations by such persons for background checks;
4. The required non-refundable application filing fee;
5. An indicia of title for the proposed site;
6. A copy of an application to be filed with the Federal Deposit Insurance Corporation (F.D.I.C.) for deposit insurance, if the applicant has applied for a charter that includes the authority to accept deposits. When the final application is filed with the F.D.I.C., a copy shall be simultaneously transmitted to the Department;
7. The proposed directors' code of conduct governing activities both inside and outside the bank;
8. If the site is to be acquired or leased from an affiliated person, an application is required by N.J.A.C. 3:1-10.2;
9. All other information required of a specific applicant by the Commissioner; and
10. Any changes in (a)1 through 9 above.

(b) The Commissioner may return to the applicant any charter application which does not comply with (a) above.

(c) The Commissioner shall accept or reject a charter application within one year after the applicant submits the application. The failure of the applicant to provide all necessary information within one year shall constitute

sufficient grounds to reject the application. The Commissioner may extend the one-year limitation when the applicant is not substantially at fault for the delay.

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

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

Changed name to N.J. Council of Savings Institutions.

Repeal and New Rule, R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Section was "Notice; publication".

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

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

In (a), inserted "required by" preceding the N.J.A.C. references in the introductory paragraph, rewrote (a)6 and added (a)10.

3:1-2.3 Branch applications of depositories

(a) An application by a depository to establish a branch office or a minibranch office shall contain the following items before it will be accepted by the Department:

1. A completed current application form, including the name of the depository and the location of the applied for branch or minibranch office;

2. An original certification of a copy of the resolution authorizing the application;

3. If the proposed transaction involves the acquisition of deposits from another banking institution:

- i. Pro forma balance sheet projections reflecting the acquiring depository before and after the acquisition; and

- ii. Projections of the ratio of Tier 1 capital to total assets of the depository before and after the acquisition;

4. If the branch site is to be acquired or leased from an affiliated person, an application as required by N.J.A.C. 3:1-10.2; and

5. All other documentation required of a specific applicant by the Commissioner or which the applicant wishes the Department to consider.

(b) An application by a depository to relocate a principal office, full branch office or minibranch office from a location in this State to another location in this State, shall contain the following items before it will be accepted by the Department:

1. A completed current application form, including the name of the depository and both locations involved in the applied for relocation;

2. An original certification of a copy of the resolution authorizing the application; and

3. If the branch site is to be acquired or leased from an affiliated person, an application as required by N.J.A.C. 3:1-10.2; and

4. All other documentation required of a specific applicant by the Commissioner or which the applicant wishes the Department to consider.

(c) An application by a depository to relocate a branch office or minibranch office from a location outside this State to another location in that state shall contain the following items before it will be accepted by the Department:

1. A completed current application form, including the name of the depository and both locations involved in the applied for relocation;

2. An original certification of a copy of the resolution authorizing the application;

3. If the branch site is to be acquired or leased from an affiliated person, an application as required by N.J.A.C. 3:1-10.2; and

4. All other documentation required of a specific applicant by the Commissioner, or which the applicant wishes the Department to consider.

(d) An application by a depository to interchange a branch office and a principal office shall contain the following items before it will be accepted by the Department:

1. A completed current application form, including the name of the depository and the location of each office involved in the applied for interchange;

2. An original certification of a copy of the resolution authorizing the application; and

3. All other documentation required of a specific applicant by the Commissioner or which the applicant wishes the Department to consider.

(e) The Commissioner may return to the applicant any branch application which does not comply with (a), (b), (c), or (d) above.

(f) The Commissioner shall accept or reject a branch application within one year after the applicant submits the application. The failure of the applicant to provide all necessary information within one year shall constitute sufficient grounds to reject the application. The Commissioner may extend the one-year limitation when the applicant is not substantially at fault for the delay.

(g) A depository that directly or through a predecessor bank, savings bank or State association by merger or other reorganization has been in business for at least three years, and which is well capitalized, adequately managed, and if applicable, has received in its most recent examination under the "Community Reinvestment Act of 1977," 12 U.S.C. §§ 2901 et seq., a rating of not less than "satisfactory record of meeting community credit needs," or its equivalent, may apply for expedited branch office approval for full branch, mini-branch, relocation, auxiliary and interchange applications by filing for such expedited approval with the Commissioner. The application shall contain:

1. A certification by the depository, in a form specified by the Commissioner, that recites the following:

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

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

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

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

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

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

(i) An accepted application for expedited processing shall be deemed approved on the 30th day after receipt by the Commissioner, unless approved or denied earlier by the Commissioner in writing, who as part of the application shall consider whether the interests of the public will be served to advantage by the establishment of such branch.

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

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

Substantial changes in section.

Repeal and New Rule, R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

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

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

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

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

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

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

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

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

In (a), (b), (c) and (d), inserted "items" following "following"; in (b) and (c), deleted former 5 and recodified former 6 as 5; added (g).

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

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

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

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

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

Deleted former (a)2 and recodified (a)3 through (a)6 as (a)2 through (a)5; deleted former (b)2 and recodified (b)3 through (b)5 as (b)2 through (b)4; deleted former (c)2 and recodified (c)3 through (c)5 as (c)2 through (c)4; and deleted former (d)2 and recodified (d)3 through (d)4 as (d)2 through (d)3.

Case Notes

Appeal of Commissioner's denial of branch banking application held required to be conducted as a "contested case" hearing under the Administrative Procedure Act, where Commissioner had decided to hold

a formal hearing; objector banks held parties to administrative proceeding. In re Orange Savings Bank, 172 N.J.Super. 275, 411 A.2d 1150 (App.Div.1980), appeal dismissed 84 N.J. 433, 420 A.2d 339.

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

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

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

1. A completed current application form, containing the name of the depository, the name of the depository selling the branch and the location of the applied for branch;
2. The required application filing fee;
3. An opinion of counsel that the out-of-State bank is authorized to acquire a branch in New Jersey;
4. If the out-of-State bank intends to immediately relocate the branch to a new location in this State, the exact location of the proposed relocation; and
5. A copy of the application filed with the home state regulator.

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

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

1. A copy of the application filed with the home state regulator and with the appropriate Federal regulator; and
2. All other documentation required of a specific applicant by the Commissioner or which the applicant wishes the Department to consider.

New Rule, R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.4, "Charter applications; notice and publication", recodified to 3:1-2.5.

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

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

Substituted "that" for "which" throughout; in (a) and (c), inserted "items" following "following"; in (b), inserted "League" preceding

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

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

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

In (b), inserted the second sentence.

Amended by R.2006 d.246, effective July 3, 2006.

See: 38 N.J.R. 1493(a), 38 N.J.R. 2795(a).

In (c)1, added "and"; deleted former (c)2; and recodified former (c)3 as present (c)2.

3:1-2.5 Charter applications; notice and publication

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

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

(c) The notice shall contain the following:

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

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

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

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

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

Repeal and New Rule, R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Section was "Objections to Minibranch applications".

Recodified from 3:1-2.4 and amended by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.5, "Branch applications; notice and publication", recodified to 3:1-2.6.

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

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

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

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

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

In (a), inserted the second sentence.

3:1-2.6 Branch applications; notice and publication

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

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

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

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

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

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

Deleted "a section 25 association branch".

Repeal and New Rule, R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Section was "Oral presentation granted or denied".

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

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

Revised (c).

Recodified from 3:1-2.5 and amended by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.6, "Charter applications; objections and oral presentations", recodified to 3:1-2.7.

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) and (b), inserted "League" preceding "Community and Savings Bankers" and substituted "; and/or their successor organizations, if any" for "and the New Jersey Savings League"; deleted former (c). Amended by R.2004 d.50, effective February 2, 2004.

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

Rewrote the section.

Case Notes

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

3:1-2.7 Charter applications; objections and hearings

(a) An objection to a new charter application of a depository must be filed in the Department within five business days from the last day of publication or notice of application, or within 10 business days after receiving mailed notice from the applicant as provided in these rules, whichever is later.

(b) To be considered by the Commissioner, an objection shall be in writing and contain:

1. A summary of the reasons for protest;
2. Facts supporting the protest, including relevant economic or financial data;
3. Any adverse effects on the objector which may result from the approval of the application;
4. An indication as to whether the objector will object at the charter hearing. A fee of \$750.00 shall accompany a notice of intent to appear at a charter hearing, except that a non-profit public interest objector shall instead include a \$100.00 fee; and
5. Proof that the objection and a request for a copy of the application were mailed to the applicant.

(c) Upon receipt of notice that an objection has been filed, an applicant shall within five calendar days forward and deliver to the objector copies of the application and all supportive data submitted relative to the application. The applicant shall file with the Commissioner proof of delivery to and receipt by the objector of this data. Within seven days after receiving this data, the objector may then file additional comments with the Department regarding matters contained in the application, and shall send copies of all comments to the applicant.

(d) The Commissioner may dismiss the objection of any objector not complying with this section, and may consider

noncompliance by an applicant when considering the charter application.

(e) The Commissioner may extend any time period set forth in this section to allow for an objection and/or for consideration of an objection by the applicant or the Department.

(f) A formal hearing, pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., shall be held on all charter applications. Only those objectors which comply with this section shall be permitted to appear at the hearing.

Repeal and New Rule, R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Section was "Charter applications; publication of hearing dates". Recodified from 3:1-2.6 and amended by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.7, "Branch applications; objections and oral presentations", recodified to 3:1-2.8.

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 "from" for "of" following "five business days".

3:1-2.8 Branch applications; objections and oral presentations

(a) An objection to a branch application must be filed with the Department within 10 days of the publication of the notice prescribed by N.J.A.C. 3:1-2.6(a) on the Department's website, or 30 days after that day if an extension is requested in writing within the 10-day period. An objection to a mini-branch application must be filed within 20 days after publication. An objection to an application to branch accepted as expedited as provided in N.J.A.C. 3:1-2.3(g) shall be filed not later than the time set forth in the notice published pursuant to N.J.A.C. 3:1-2.6.

(b) An objection shall be in writing and contain:

1. A summary of the reasons for protest;
2. Facts supporting the protest, including relevant economic or financial data;
3. Any adverse effects on the objector which may result from approval of the application;
4. An indication as to whether the objector applies to have a branch hearing. A fee of \$750.00 shall accompany an application for a branch hearing, except that a non-profit public interest objector shall instead include a \$100.00 fee. If it is later determined that an oral presentation will not be held, the fee will be returned to each of the objectors requesting an oral presentation; and
5. Proof that the objection and a request for a copy of the application were mailed to the applicant.

(c) Upon receiving notice from the objector that an objection has been filed, an applicant shall within seven calendar days forward and deliver to the objector copies of the application and all supportive data submitted relative to

the application. The applicant shall file with the Department proof of delivery to and receipt by the objector of this data. Within 14 calendar days after receiving data from the applicant, the objector may file additional comments with the Commissioner regarding matters contained in the application, and shall send copies of all comments to the applicant.

(d) Within 10 days after receiving final comments from an objector, the Commissioner shall notify the objector and the applicant as to whether the objection is substantial and will therefore be considered. An objection is substantial only if:

1. It is in writing and filed on time;
2. It contains a summary of the reasons for protest, a statement of the specific matters in the application to which the protestant objects and the reason for the objection, facts supporting the protest including relevant economic or financial data, and a summary of any adverse effects on the objector which may result from the approval of the application; and
3. It pertains to at least one of the criteria for approval.

(e) The applying depository may file an answer to any substantial objection until 15 days after receipt of written notice from the Commissioner that such protest is considered substantial by furnishing four copies of the answer to the Commissioner.

(f) The Department may grant a request for oral presentation on applications for branch application only if:

1. The objector requesting the oral presentation has filed and perfected an objection and oral presentation request; and
2. The objector requesting the oral presentation has presented sufficient reasons indicating that it is necessary and warranted and that the matter cannot be resolved on the papers.

(g) Notwithstanding (f) above, the Department may schedule a hearing or oral presentation on any application if deemed necessary or warranted under the circumstances.

(h) There shall ordinarily be no oral presentations on minibranch, communication terminal branch, auxiliary or limited facility branch office applications.

New Rule, R.1992 d.483, effective December 7, 1992.
See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Old section "Insufficiency of data in support of application; hearing" recodified to 2.8.
Recodified from 3:1-2.7 and amended by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.8, "Insufficiency of data in support of application; hearing", recodified to 3:1-2.9.
Amended by R.2004 d.50, effective February 2, 2004.
See: 35 N.J.R. 4350(a), 36 N.J.R. 647(a).

Rewrote (a).

3:1-2.9 Insufficiency of data in support of application; hearing

(a) In any matter where the Department shall find that the applicant or objector has not filed sufficient data, information or material in support of or in opposition to a branch application or a charter application, the applicant or objector may be required to file supplementary data, information or material, or be subject to dismissal of the application or objection.

(b) All papers required to be filed must be received in the Department by close of business on the date due. If the due date falls on a weekend or holiday then the filing must be effected by close of business on the very next business day. Upon good cause shown, extensions of time within which to file must be considered if requested in writing with notice to all parties at least five days prior to due date.

(c) Only that data required by rules or required by the Department will be considered.

Recodified from 3:1-2.8 and Amended by R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Revised (a); prior 2.8 "Notice of oral presentation" repealed.

Recodified from 3:1-2.8 by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.9, "Oral presentations", recodified to 3:1-2.10.

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

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

Case Notes

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

Charter hearings for a capital stock association should be conducted by an administrative law judge, unless the commissioner of banking deems it appropriate to himself act as the hearing officer. Atty.Gen. F.O.1979, No. 15.

3:1-2.10 Oral presentations

(a) If there is to be oral presentation, the Department shall notify the applicant and objector, if any, of the date, time, place and nature of the proceeding.

(b) Any oral presentation pursuant to the subchapter may be held before the Commissioner, or his or her designee, as presiding officer.

(c) Every oral presentation shall be open to the public unless the Commissioner shall determine that a private presentation would be in the public interest.

(d) Oral presentations on all applications, shall be strictly limited to a total of seven hours. The applicant shall be limited to three hours to present information in support of its application. The objectors shall be limited to two hours for the presentation of affirmative and rebuttal information. A shorter or longer time may be prescribed by the Department with prior notice to all parties.

(e) When multiple objectors appear through separate counsel, each shall be afforded a pro rata portion of the time allotted to objectors, unless otherwise agreed upon by all objectors.

Amended by R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Added new (a); redesignated existing (a)-(d) as (b)-(e).

Recodified from 3:1-2.9 by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.10, "Failure of party requesting oral presentation to appear", recodified to 3:1-2.11.

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

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

In (b), substituted "his or her designee, as presiding officer" for "before any deputy commissioner, regulatory officer or any employee of the Department authorized by the Commissioner".

Case Notes

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

3:1-2.11 Failure of party requesting oral presentation to appear

When the party requesting the oral presentation or having notified the Department of an intent to appear at a charter hearing fails to appear at a scheduled proceeding without sufficient reason therefor, such failure to appear shall be

treated as a withdrawal of the objection and/or the request for an oral presentation. In the event that a party fails to appear at an oral presentation, any fees paid shall be retained by the State.

Recodified from 3:1-2.10 by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.11, "Minibranches; space limitation", recodified to 3:1-2.12.

3:1-2.12 Minibranches; space limitation

(a) For the purpose of N.J.S.A. 17:9A-1(16), a bank shall be deemed to occupy the sum of the enclosed areas which it has leased or purchased in conjunction with an application to establish a minibranch, subject to the exceptions in (c) below.

(b) Occupied space shall include all enclosed customer, teller, work, storage, platform and employee lounge areas.

(c) Occupied space shall not include outside facilities such as drive-up or walk-up windows, apparatus or space; common entrance ways or areas which are shared with one or more other business entities; or restroom facilities.

(d) Applications for minibranches which occupy in excess of 500 square feet will be denied. The applicant for a minibranch shall have the burden of establishing that 500 or less square feet will be occupied.

Recodified from 3:1-2.11 by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.12, "Prehearing conference", recodified to 3:1-2.13.

3:1-2.13 Prehearing conference

(a) Prior to any hearing, or oral presentation, the presiding officer may, in his or her discretion, direct all parties and counsel to appear before him or her for a prehearing conference for any or all of the following purposes:

1. Simplification and clarification of the issues;
2. Admission and stipulations of fact and of the contents and authenticity of documents; and
3. Such other matters as may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses and of documents or in (b) below.

(b) Such conference, in the discretion of the presiding officer, need not be recorded, but the presiding officer shall enter in the record an order signed by the parties which recites the results of the conference. Such order, a copy of which shall be furnished to each party, shall include the presiding officer's rulings upon matters considered at the conference, together with appropriate directions, if any, to the parties; and such order shall control the subsequent course of the proceedings unless notified at the oral presentation for good cause shown by appropriate order of the presiding officer.

Recodified from 3:1-2.12 by R.1996 d.483, effective October 7, 1996.
See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).

Former N.J.A.C. 3:1-2.13 "Procedure for oral presentation", recodified to 3:1-2.14.

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

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

Substituted "presiding" for "regulatory" throughout.

3:1-2.14 Procedure for oral presentation

(a) Both applicant and objector may raise issues and present information only if same have been affirmatively raised in the application, the objection, or the comprehensive objection. All other matters will be excluded unless the person presiding rules otherwise, and then only for good cause shown.

(b) All studies, reports or the like may be offered only if previously submitted to the Department and other interested persons pursuant to the presiding person's direction.

(c) The applicant and the objector shall each be permitted to make an opening statement, stating precisely what information they will present. The applicant and participants may then present witnesses, materials and data. Questions may be addressed to the applicants, objectors and witnesses after each of their presentations by the presiding officer, applicant or objector. The applicant and objector shall then concisely summarize their positions. Witnesses shall not be sworn.

(d) The applicant and objectors shall bear a pro rata share of the transcript costs for the transcripts required by the department and all other regulatory agencies requesting same.

Recodified from 3:1-2.13 by R.1996 d.483, effective October 7, 1996.

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

Former section, "Priority", repealed.

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

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

In (c), substituted "presiding" for "regulatory".

Case Notes

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

Charter hearings for a capital stock association should be conducted by an administrative law judge, unless the commissioner of banking deems it appropriate to himself act as the hearing officer. Atty.Gen. F.O.1979, No. 15.

Branch banking proceedings are not contested cases within the meaning of the Administrative Procedure Act and need not be conducted by administrative law judges. Atty.Gen.F.O.1979, No. 6.

3:1-2.15 Closing of branch offices

(a) A bank, savings bank or savings and loan association shall notify the Department not less than 30 days before closing a full branch office. The institution shall include in this notice the following:

1. The name of the institution and the location of its principal office;
2. The location of the branch office which will be closed;
3. The prospective date of closing;
4. A statement of reasons leading to the decision to close the branch;
5. A map of the general area served by the branch showing all remaining branches of State or Federally chartered banks, savings banks and savings and loan associations within such area; and
6. A statement indicating the effect the branch closing will have on the availability of financial services in the area.

(b) If a bank, savings bank or savings and loan association acquires a branch or deposits of a branch from the Federal Deposit Insurance Corporation or has an option to purchase a branch, and closes it within 180 days, or if it sells a branch to another depository which operates the office as a branch, it may comply with this rule by filing a Certificate of Discontinuance with the Commissioner along with the required fee.

(c) A bank, savings bank or savings and loan association may submit to the Department a copy of the branch closing notice filed with its Federal regulator in lieu of the filings required by (a)1 through 4 above.

(d) Notice requirements for closing of branch offices are as follows:

1. Beginning within 10 calendar days after notification of the Department, the bank, savings bank or savings and loan association shall publish notice of the proposed closing once a week for two successive weeks in a newspaper designated by the Commissioner, which is published and circulated in the municipality in which said branch is to be closed, or if there be no such newspaper, then in a newspaper of general circulation in the municipality. The institution shall include in the notice the name of the institution, the location of the branch office which will be closed and the prospective date of closing, the location of the depository's nearest branch office, and a statement indicating that all comments to the closing of the branch may be made to the institution and to the Department of Banking, along with the mailing address of the Department and the institution.

2. A bank, savings bank or savings and loan association which notifies its customers of the branch closing in accordance with Federal law is exempt from the publication requirement in (d)1 above.

3. For at least 30 days prior to the branch closing, the bank, savings bank or savings and loan association shall conspicuously post notice of the proposed branch closing in the branch to be closed. This notice in the branch shall contain at least the prospective date of closing, the location of the depository's nearest branch office, and a statement indicating that all comments regarding the closing of the branch may be made to the institution and to the Department along with the mailing address of the institution and the Department.

4. The notice requirements of this subsection shall not apply to a branch relocation within the same neighborhood where the customers served by the closed branch would be substantially unaffected by the move. In addition, the notice requirements of this subsection shall not apply to a consolidation of branches after a merger or acquisition if the branches are located in the same neighborhood and the nature of the business or customers served is not affected.

(e) If the Commissioner determines that there are valid concerns regarding the effect of the closing upon the local community, the Commissioner shall be authorized to conduct such meetings with the institution closing the branch, and with banks, savings banks, savings and loan associations, community leaders and others, as are necessary in his or her judgment to explore the effect of the branch closing on the community and the possibility of replacing such branch office with other adequate facilities.

(f) The Commissioner may suspend the notice requirements on this rule in the event of an emergency or a supervisory merger or acquisition, or when otherwise in the public interest.

(g) Banks, savings banks and savings and loan associations shall maintain a file in their principal office which is open to the public and which contains a description of any meetings or hearings which occurred pursuant to this section in the past two years.

Repealed by R.1988 d.472, effective October 3, 1988.

See: 20 N.J.R. 697(a), 20 N.J.R. 2450(a).

Section "Fees; conversion from mutual to capital stock association" repealed.

New Rule, R.1991 d.392, effective August 5, 1991.

See: 23 N.J.R. 801(a), 23 N.J.R. 2305(a).

Amended by R.1991 d.523, effective October 21, 1991.

See: 23 N.J.R. 2208(b), 23 N.J.R. 3133(b).

Posting of closure notice in branch offices required; maintenance of file for public inspection, new (c).

Amended by R.1994 d.318, effective July 5, 1994.

See: 26 N.J.R. 883(b), 26 N.J.R. 2779(a).

Recodified from 3:1-2.17 and amended by R.1996 d.483, effective October 7, 1996.

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

Former section, "Population", repealed.

Recodified from N.J.A.C. 3:1-2.16 and amended by R.2001 d.112, effective April 2, 2001.

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

In (b), deleted "Resolution Trust Corporation or the" preceding "Federal Deposit Insurance Corporation"; in (d)3, substituted "regarding" for "to", "institution" for "Department" and "Department" for "institution". Former N.J.A.C. 3:1-2.15, Relaxation or dispensation of requirements of subchapter, repealed.

Case Notes

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

3:1-2.16 Officially recognized data sources

(a) The Department shall take official notice of one or more of the following data sources to test the accuracy of data submitted in connection with applications and objections, to resolve factual discrepancies and to weigh the accuracy, reasonableness and applicability of documentary and oral evidence before it:

1. United States Department of Commerce, Bureau of the Census, 4700 Silver Hill Road, Suitland, MD 20746, www.census.gov, Census of Housing (published decennially);

2. United States Department of Commerce, Bureau of the Census, 4700 Silver Hill Road, Suitland, MD 20746, www.census.gov, Census of Population (published decennially);

3. United States Department of Commerce, Bureau of the Census, 4700 Silver Hill Road, Suitland, MD 20746, www.census.gov, Census of Business (published every five years);

4. United States Department of Commerce, Bureau of the Census, 4700 Silver Hill Road, Suitland, MD 20746, www.census.gov, Census of Manufacturers (published every five years);

5. Population Estimates for New Jersey—Official State Estimates, New Jersey Department of Labor and Workforce Development, PO Box 056, Trenton, NJ 08625-0056, www.state.nj.us/labor/lra (published annually);

6. United States Department of Commerce, Bureau of the Census, 4700 Silver Hill Road, Suitland, MD 20746, www.census.gov, Construction Review (published monthly);

7. New Jersey Department of Community Affairs, Division of Local Government Services, PO Box 800, Trenton, NJ, 08625, www.state.nj.us/dca/lgs, Annual Report (published annually);

8. New Jersey Department of Labor and Workforce Development, Division of Labor Planning and Analysis, PO Box 056, Trenton, NJ 08625-0056, www.state.nj.us/labor/lra, State of New Jersey-Residential Construction Authorized by Building Permits (published annually and available also on a monthly basis);

9. United States Department of Commerce, Bureau of the Census, 4700 Silver Hill Road, Suitland, MD 20746, www.census.gov, Current Population Reports (published monthly);

10. United States Internal Revenue Service, 31 Hopkins Plaza, Baltimore, MD 21203, www.irs.ustreas.gov, Statistics of Income (published annually);

11. New Jersey Department of Community Affairs, Division of Local Government Services, PO Box 800, Trenton, NJ, 08625, www.state.nj.us/dca, United States Census Data for New Jersey Townships (provides tables of statistical information from the most recent United States Census paralleling those available for non-townships in printed census reports);

12. New Jersey Industrial Directory (published annually);

13. Local zoning ordinances and master plans;

14. Federal Deposit Insurance Corporation, 20 Exchange Place, New York, NY 10005, www.fdic.gov, Operating Banking Offices (published annually);

15. Federal Deposit Insurance Corporation, 20 Exchange Place, New York, NY 10005, www.fdic.gov, Bank Operating Statistics (published annually);

16. Federal Deposit Insurance Corporation, 20 Exchange Place, New York, NY 10005, www.fdic.gov, Changes Among Operating Banks and Branches (published annually);

17. Federal Deposit Insurance Corporation, 20 Exchange Place, New York, NY 10005, www.fdic.gov, Summary of Deposits in All Commercial and Mutual Savings Banks (published annually);

18. Federal Home Loan Bank Board, 101 Park Avenue, New York, NY 10178, www.fhlbny.com; Summary Savings Accounts by Geographic Area (published annually);

19. Thomson Financial Publishing, 4709 W. Gulf Road, Skokie, IL 60076, www.tfp.com, Polk's World Bank Directory (published semiannually);

20. Department of Agriculture, PO Box 330, Trenton, NJ 08625-0330, www.state.nj.us/agriculture, Soil Conservation Services Studies and Reports;

21. New Jersey Department of Labor, Division of Employment Security, PO Box 056, Trenton, NJ 08625-0056, www.state.nj.us/labor/lra, Covered Employment Trends (published annually and available on a monthly basis);

22. Various County Planning Board Reports, for example, population studies and projections, employment trends, industrial-commercial development studies, and so forth; and

23. New Jersey Department of Banking and Insurance, PO Box 325, Trenton, NJ 08625-0325, www.njdobi.org, Annual Report.

(b) Other officially noticeable data will be considered when applicable and relevant.

(c) Any applicant or objector(s) shall, simultaneously with the filing of an application or objection, indicate which of the foregoing sources they object to and detail in writing their reasons for objecting.

Amended by R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

(a): Stylistic revision; (a)22-23: Stylistic revision; deleted (a)24. Recodified from 3:1-2.18 by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.17, "Closing of branch offices", recodified to 3:1-2.16.

Recodified from N.J.A.C. 3:1-2.17 and amended by R.2001 d.112, effective April 2, 2001.

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

Rewrote (a). Former N.J.A.C. 3:1-2.16, Closing of branch offices, recodified to N.J.A.C. 3:1-2.15.

Amended by R.2006 d.246, effective July 3, 2006.

See: 38 N.J.R. 1493(a), 38 N.J.R. 2795(a).

In (a)5 and (a)8, inserted "and Workforce Development"; in (a)11, substituted "www.state.nj.us/dca" for "www.nj.us/dca/dcahome.htm"; in (a)18, substituted "101 Park Avenue" for "7 World Trade Center, 22nd Floor" and "10178" for "10048-1185"; and in (a)19, substituted "www.tfp.com" for "www.tpf.com".

3:1-2.17 Applications; copies

An original and one copy of all submissions relative to any application shall be filed with the Department.

Recodified from 3:1-2.19 by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.18, "Officially recognized data sources", recodified to 3:1-2.17.

Recodified from N.J.A.C. 3:1-2.18 by R.2001 d.112, effective April 2, 2001.

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

Former N.J.A.C. 3:1-2.17, Officially recognized data sources, recodified to N.J.A.C. 3:1-2.16.

3:1-2.18 Charter applications; conditions for approval

(a) The Commissioner shall condition approval of a charter application by a depository on the following factors:

1. If the depository is authorized to take deposits, on the depository becoming a member of the Federal Deposit Insurance Corporation;

2. If the depository is a stock institution, it will issue and sell shares of its authorized capital stock in sufficient amount to raise its capital base before commencement of operations to at least the minimum amount set forth in N.J.A.C. 3:1-2.19, and will obtain prior approval from the Department for any person purchasing more than five percent of the authorized capital stock.

3. The depository shall comply with all requirements with respect to loans and transactions involving the depository and its directors, offices and other persons set forth in subtitles 1 and 2 of Title 17 of the New Jersey Statutes Annotated and Title 3 of the New Jersey Administrative Code, including, but not limited to, N.J.S.A. 17:9A-71, 17:9A-72, and 17:9A-195, and N.J.A.C. 3:1-11, 3:6-3, 3:6-15, and 3:7-5;

4. For the first three years after issuance of the certificate of authority, the depository shall obtain prior approval from the Commissioner before installing any person on the board of directors or employing any person with the depository in an executive officer position as defined in N.J.A.C. 3:6-3.1;

5. For the first three years after issuance of the certificate of authority, the depository shall maintain:

i. A tier I capital-to-assets ratio, as that ratio is defined in 12 C.F.R. § 325.2(k), that is at least eight percent of the bank's total assets unless prior written consent has been received from the Commissioner permitting a lower ratio; and

ii. A fully funded reserve; and

6. Such other conditions for a specific applicant as the Commissioner identifies as appropriate.

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

See: 16 N.J.R. 947(a), 16 N.J.R. 1967(a).

Section was "Sharing limited facility branch offices; notice, fee".

New Rule, R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Recodified from 3:1-2.20 and amended by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.19, "Applications; copies", recodified to 3:1-2.18.

Amended by R.1998 d.336, effective July 6, 1998.

See: 30 N.J.R. 1112(a), 30 N.J.R. 2421(a).

Rewrote (a)3.

Recodified from N.J.A.C. 3:1-2.19 and amended by R.2001 d.112, effective April 2, 2001.

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

In (a), inserted "factors" at the end of the introductory paragraph, amended the N.J.A.C. reference in 2, substituted "New Jersey Statutes Annotated" for "Revised Statutes" in 3, deleted former 4 and recodified former 5 as 4, inserted a new 5, and substituted "identifies as" for "deems" in 6. Former N.J.A.C. 3:1-2.18, Applications; copies, recodified to N.J.A.C. 3:1-2.17.

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

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

In (a), substituted "If the" for "The" preceding "depository" and inserted "is a stock institution, it" following "depository" in 2, and rewrote 5.

3:1-2.19 Minimum and maximum stock subscriptions

(a) Each charter application for a depository shall provide for stated capital of at least \$6,000,000. If the depository is a stock institution, capital shall include at least \$3,000,000 in capital stock, or such other amount as required by the Commissioner; except that an application for a charter for a trust company, which does not have authority to take deposits, may provide for a stated capital of \$2,000,000 in capital stock; and except that an application for a charter incident to the purchase of a failed institution or a branch or branches of a failed institution, may provide for stated capital of \$5,000,000, or more, or six percent of deposits acquired, whichever is greater, with at least \$2,500,000 in capital stock for a stock institution, so long as the depository agrees to raise additional capital to reach \$6,000,000 within one year following issuance of the Certificate of Authority while also satisfying the capital requirements set forth in N.J.A.C. 3:4.

(b) The incorporators of a depository shall subscribe to all stock listed as issued on the certificate of incorporation, which shall be at least 25 percent of the total capital required by (a) above.

(c) After a charter application is accepted, the balance of the capital stock, if any, shall be offered to the general public in the area to be served by the depository. The proceeds of such sale shall be placed in escrow and remain in escrow and not released until the bank obtains a Certificate of Authority. The form of the escrow agreement shall be approved by the Department.

(d) No individual shall subscribe for stock in excess of 24.9 percent of the total capital required by (a) above.

(e) No company may subscribe for stock in excess of 24.9 percent of the total capital required by (a) above, except a holding company that has registered in accordance with state and Federal law and regulations if required.

Amended by R.1984 d.119, eff. April 16, 1984.

See: 16 N.J.R. 174(a), 16 N.J.R. 870(a).

Specific minimums deleted, Commissioner granted greater discretion; (d) deleted.

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

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

Minimum changed from \$2,000,000 to \$7,000,000.

Amended by R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Revised heading and (a)-(c); added (d)-(e).

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

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

Revised (a).

Recodified from 3:1-2.21 and amended by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.20, "Charter applications; conditions for approval", recodified to 3:1-2.19.

Recodified from N.J.A.C. 3:1-2.20 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 (c). Former N.J.A.C. 3:1-2.19, Charter applications; conditions for approval, recodified to N.J.A.C. 3:1-2.18.

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

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

In (a), inserted references to stock institutions and updated capital amounts.

3:1-2.20 Criteria for branch approval: Public interest

(a) In reaching a determination as to whether an applicant meets the requirement that "the interests of the public will be served to advantage by the establishment of such full branch" as required by N.J.S.A. 17:9A-20(A)(1)(b), the Commissioner shall consider only the following factors:

1. The availability of the proposed office to the general public or that segment of the public to be served as the case may be;
2. The presence and experience of a newly-chartered institution or an institution subject to supervisory review by the Department within the trade area of the proposed office;
3. The conditions set forth in Departmental regulations regarding insider real estate transactions, if any; and
4. The current financial condition of the applicant, including, but not limited to, capital, asset quality, management, earnings and liquidity. Department files, with respect to the factors contained in this subsection, shall be confidential as required by N.J.S.A. 17:9A-264 and shall not be open or available for review by either the applicant or objectors; and
5. The Commissioner's determination with respect to these factors shall be a final agency decision.

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

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

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

Recodified from 3:1-2.22 by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.21, "Minimum and maximum stock subscriptions", recodified to 3:1-2.20.

Recodified from N.J.A.C. 3:1-2.21 and amended by R.2001 d.112, effective April 2, 2001.

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

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

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

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

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

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

Recodified from 3:1-2.23 and amended by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.22, "Criteria for branch approval: Public interest", recodified to 3:1-2.21.

Recodified from N.J.A.C. 3:1-2.22 by R.2001 d.112, effective April 2, 2001.

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

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

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

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

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

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

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

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

1. Would the proposed change contravene the plan which was the subject of existing Order;

2. Would the proposed change have a negative effect on the subject institution, either through disruption of activities, turnover of key personnel, loss of public confidence, or otherwise;

3. Would the proposed change have a chilling effect on other similarly situated institutions;

4. Would the proposed change be fair and equitable to all shareholders;

5. Would the proposed change represent a change in the focus of the regulated institution's activities and create public harm;

6. Would the changes in circumstances render continued compliance with the existing Order burdensome and inequitable; and

7. Such other issues as the parties may deem necessary for a fair and equitable determination by the Commissioner based on all the relevant facts.

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

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

Recodified from 3:1-2.24 by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.23, "Criteria for branch approval: Promise of success", recodified to 3:1-2.22.

Recodified from N.J.A.C. 3:1-2.23 and amended by R.2001 d.112, effective April 2, 2001.

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

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

3:1-2.23 Fees; banks and savings banks

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

1. For filing an application for charter..... \$15,000
2. For filing plans of acquisition, per company, per bank or savings bank; the fee is charged 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..... \$3,000
3. For the issuance of a certified copy of any certificate of incorporation or merger or plan of reorganization or any other certificate or affidavit filed in the Department, plus \$2.00 per page 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..... \$25.00
4. For the issuance of any other approval by the Commissioner, plus per diem charges where applicable; the fee is charged 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.....\$100.00

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

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

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

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

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

See: 21 N.J.R. 2397(a).

New Rule, R.1989 d.449, effective August 21, 1989.

See: 21 N.J.R. 1601(b), 21 N.J.R. 2473(b).

Amended by R.1991 d.244, effective May 6, 1991.

See: 23 N.J.R. 642(a), 23 N.J.R. 1408(b).

Change of term at (a)4, from "communication terminal branch office" to "automated teller machine."

Amended by R.1991 d.294, effective June 17, 1991.

See: 23 N.J.R. 929(b), 23 N.J.R. 1919(b).

Added fee for conversion from a savings bank to an association.

Amended by R.1994 d.208, effective May 2, 1994.

See: 26 N.J.R. 286(a), 26 N.J.R. 1827(a).

Amended by R.1994 d.318, effective July 5, 1994.

See: 26 N.J.R. 883(b), 26 N.J.R. 2779(a).

Recodified from 3:1-2.25 and amended by R.1996 d.483, effective October 7, 1996.

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

Former N.J.A.C. 3:1-2.24, "Modification of Order and/or rehearing", recodified to 3:1-2.23.

Recodified from N.J.A.C. 3:1-2.24 and amended by R.2001 d.112, effective April 2, 2001.

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

In (a), added 2ii; added (d). Former N.J.A.C. 3:1-2.23, Modification of Order and/or rehearing, recodified to N.J.A.C. 3:1-2.22.

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

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

Deleted former (a)2 through (a)7 and recodified (a)8 as (a)2, inserted "; the fee is charged 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)2; deleted former (a)9 through (a)16 and recodified (a)17 as (a)3, inserted "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)3, deleted former (a)18 and (a)19, recodified (a)20 as (a)4 and inserted "; the fee is charged 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" following "applicable" in (a)4; and inserted "as a part of an application to enter the State through acquisition" in (b)2.