

BANKING

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF BANKING

Fees, License Terms and Annual Reports for Licensees

Proposed Readoption with Amendments: N.J.A.C. 3:23

Proposed Repeal: N.J.A.C. 3:23-3

Authorized By: Kenneth E. Kobylowski, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8, 8.1, and 15.e; 17:15A-33; 17:15C-9.c; 17:16C-8 and 82; 17:16D-4;
17:16G-4; 45:22-4 and 11; and 46:10B-55.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2015-058.

Submit comments by July 31, 2015, to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes to readopt N.J.A.C. 3:23, its rules governing fees and annual reports for all licensees as defined by N.J.A.C. 3:5-2. Pursuant to N.J.S.A. 52:14B-5.1.b, this chapter is scheduled to expire on April 24, 2015. In accordance with N.J.S.A. 52:14B-5.1.c(2), the filing of this Notice of Proposal to Readopt with Amendments and Repeal with the Office of Administrative Law extends the expiration date 180 days to October 21, 2015.

Subchapter 1 sets forth the purpose and the scope of the chapter. The Department proposes to amend subsection (b) of this subchapter to correct the citation of N.J.A.C. 3:5-2 to N.J.A.C. 3:5-2.1.

Subchapter 2 sets forth license terms and application fees. N.J.A.C. 3:23-2.1(a) states that all licensees governed by the Consumer Finance Licensing Act, N.J.S.A. 17:11C-1 to 50, shall be subject to the application fees specified in N.J.A.C. 3:17-4.2 and that all licensees governed by the Residential Mortgage Lenders Act, N.J.S.A. 17:11C-51 et seq., shall be subject to the application fees specified in N.J.A.C. 3:15-4.1. The Department proposes to amend this section to correct the citation of N.J.A.C. 3:17-4.2 to N.J.A.C. 3:17-3.2. N.J.A.C. 3:23-2.1(b) sets forth a table which lists the application fees other than those specified in N.J.A.C. 3:15-4.1 and 3:17-4.2. In the text preceding the table, the Department proposes to correct the citation of N.J.A.C. 3:17-4.2 to N.J.A.C. 3:17-3.2. Following entry 7 in the table, an amendment is proposed to correct the citation following High Cost Home Loan Credit Counselor from N.J.S.A. 46:10-22 et seq. to N.J.S.A. 46:10B-22 et seq. N.J.A.C. 3:23-2.1(c) states that all application fees are nonrefundable.

N.J.A.C. 3:23-2.2(a) states that all newly issued licenses referenced in N.J.A.C. 3:23-2.1 shall run from the date of issuance to the end of the license term during which the initial license

was issued. N.J.A.C. 3:23-2.2(b) states that commencing with the license term that began July 1, 2007, the license term for all licenses referenced in N.J.A.C. 3:23-2.1 shall be two years, beginning on July 1 of each odd numbered year and ending on June 30 of the next odd numbered year.

Subchapter 3 sets forth rules concerning money transmitter license applications and annual reports. The Department proposes to repeal this subchapter because its content is more properly located in N.J.A.C. 3:27-2.2 and 3.3, in the rules specifically governing money transmitters.

Subchapter 4 sets forth the annual reporting requirements for licensees. The Department proposes to readopt N.J.A.C. 3:23-4 without amendments. N.J.A.C. 3:23-4.1 states that unless otherwise prescribed by a statute or rule applicable to a particular license type, each licensee listed in N.J.A.C. 3:23-2.1, including licensed lenders, shall file an annual report on or before April 1 on a form supplied by the Commissioner. Mortgage lenders and mortgage brokers shall file an annual report on or before May 1 on a form supplied by the Commissioner. The form shall include the licensee's name, address, official e-mail address, volume of business(es), bonding information, if any, and may include any other information that the licensee is required by rule or statute to maintain or report.

N.J.A.C. 3:23-4.2 sets forth the regulations for the electronic filing of annual reports. N.J.A.C. 3:23-4.2(a) states that all annual reports shall be filed electronically. N.J.A.C. 3:23-4.2(b) states that licensees unable to file electronically may apply to the Department for an exemption from electronic filing. N.J.A.C. 3:23-4.2(c) states that all exemption applications shall be forwarded to the Department by January 15 of the year in which the report is to be filed

and shall include a statement certifying to the applicant's inability to file electronically and the reasons for that inability.

N.J.A.C. 3:23-4.3 sets forth the regulations regarding the late filing of annual reports. N.J.A.C. 3:23-4.3(a) states that all annual reports shall be filed in accordance with N.J.A.C. 3:1-7.6. N.J.A.C. 3:23-4.3(b) states that all annual reports filed late shall be subject to penalties as provided in N.J.A.C. 3:1-7.6. N.J.A.C. 3:23-4.3(c) states that a final annual report shall be required for the calendar year in which the licensee discontinues its licensed business operations in New Jersey.

The rules proposed for readoption with amendments and repeal will continue to provide the regulatory framework to enable the Department to collect the appropriate application fees, properly monitor licensees, and ensure a fair and equitable allocation of the dedicated funding assessment applicable to licensees pursuant to N.J.S.A. 17:1C-33 et seq.

A 60-day comment period is provided and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The rules proposed for readoption with amendments and repeal will continue to have a beneficial social impact on the general public and the entities licensed by the Division of Banking. The readoption of the rules with amendments and repeal is necessary for the continuation of the dedicated funding mechanism. The use of dedicated funding ensures that the Division of Banking has adequate funding to effectively protect and educate consumers and to regulate licensees and depositories in an efficient and timely manner. The proposed amendments

and repeal will not alter the beneficial social impact of the rules since they are technical and organizational in nature. For these reasons, re-adoption of the current rules with amendments and repeal will have a favorable social impact.

Economic Impact

The Department does not expect that the rules proposed for re-adoption with amendments and repeal will have a significant economic impact on most entities licensed by the Division of Banking. Under the dedicated funding mechanism implemented in part by these rules, licensees will not pay any licensing or renewal fees, but will continue to pay application fees. These fees defray some of the added costs of regulating an entity in its first year. The Department believes that these application fees are a reasonable cost of doing business. The proposed amendments and repeal are primarily technical and should not result in any added costs incurred by licensees.

Federal Standards Statement

The rules proposed for re-adoption with amendments and repeal are not subject to any Federal standards or requirements. Therefore, a Federal standards analysis is not required.

Jobs Impact

The Department does not anticipate that any jobs will be generated or lost as a result of the rules proposed for re-adoption with amendments and repeal. Licensees in most circumstances will use existing staff and should need to employ professional services only in rare circumstances to meet the application, reporting, and other compliance requirements.

The Department invites commenters to submit any data or studies concerning the jobs impact of the proposed readoption with amendments and repeal together with their written comments on other aspects of this proposal.

Agriculture Industry Impact

The Department does not expect any agriculture industry impact from the rules proposed for readoption with amendments and repeal in that the rules relate to consumer finance licenses.

Regulatory Flexibility Analysis

Many of the licensees affected by the rules proposed for readoption with amendments and repeal are small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments and repeal will continue to impose compliance requirements on these entities, including requiring licensees to submit annual reports. The rules proposed for readoption with amendments and repeal were originally crafted to ensure that the economic burden on smaller entities that generally impose a more modest regulatory burden on the Department are less than those borne by entities whose regulation requires a greater expenditure of Department's resources.

The Department does not believe that these requirements are unduly burdensome. Moreover, they are consistent with prudent financial service industry practice. The businesses covered by the rules engage either in the handling of monies belonging to others or the making and fulfillment of loan commitments. The obligations of such businesses to remain properly credentialed and fiscally strong exist regardless of the size of the business. Accordingly, no

differentiation in reporting, recordkeeping, or compliance requirements based on business size is provided.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments and repeal will not have an impact on housing affordability in this State in that the rules relate to consumer finance licenses.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments and repeal will not have impact on smart growth in this State and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey in that the rules relate to consumer finance licenses.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:23.

Full text of the proposed amendments and repeal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

3:23-1.1 Purpose and scope

- (a) (No change.)
- (b) This chapter applies to all licensees as defined by N.J.A.C. 3:5-2.1.

SUBCHAPTER 2. APPLICATION FEES AND LICENSE TERMS

3:23-2.1 Application fees

(a) All licensees governed by the Consumer Finance Licensing Act, N.J.S.A. 17:11C-1 to 50, shall be subject to the application fees specified in N.J.A.C. 3:17-[4.2]**3.2**. All licensees governed by the Residential Mortgage Lenders Act, N.J.S.A. 17:11C-51 et seq., shall be subject to the application fees specified in N.J.A.C. 3:15-4.1.

(b) The following table indicates the application fees established by the Commissioner of Banking and Insurance for application fees other than those specified in N.J.A.C. 3:15-4.1 and 3:17-[4.2]**3.2**.

<u>Licensees</u>	<u>Application Fee</u>
1. – 6. (No change.)	
7. High Cost Home Loan Credit Counselor (N.J.S.A. [46:10] 46:10B -22 et seq.)	\$100.00
8. – 9. (No change.)	
(c) (No change.)	

SUBCHAPTER 3. [MONEY TRANSMITTERS] (**RESERVED**)

[3:23-3.1 License; application fee

Each applicant for a license to conduct business as a money transmitter shall fill out a form supplied by the Commissioner of Banking and Insurance which complies with the mandates of N.J.S.A. 17:15C-7. A nonrefundable fee of \$700.00 for a money transmitter or a

foreign money transmitter shall accompany the application, but is not required to be paid for a renewal application.

3:23-3.2 Annual report

(a) Each money transmitter, including foreign money transmitters, shall file an annual report on or before April 1, on a form supplied by the Commissioner. The form shall include information indicating the adequacy of net worth, demonstrating the timely transmission of funds, confirming bonding requirements, summarizing activity, and any other relevant information which the Commissioner may require concerning conduct of the business.

(b) In accordance with N.J.A.C. 3:1-7.6, the Department shall assess a penalty against any licensee for each report filed late.]