



State of New Jersey

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BULLETIN NO. 12-11

TO: ALL NEW JERSEY STATE CHARTERED BANKS, SAVINGS BANKS, SAVINGS AND LOAN ASSOCIATIONS AND CREDIT UNIONS

FROM: KENNETH E. KOBYSLOWSKI, ACTING COMMISSIONER

RE: DISASTER PREPARATION MEASURES

Based on the potential for widespread damage and disruption from the effects of Hurricane Sandy in the coming days, the Department of Banking and Insurance (“the Department”) makes the following recommendations to all New Jersey chartered banks, savings banks, savings and loan associations and credit unions (“institutions”) regarding their disaster preparation measures.

According to established practice, all institutions are required to prepare and maintain a disaster response preparation plan to address all reasonably foreseeable risks to continuity of business in the event of a catastrophic event. The Department notes the particular importance to New Jersey citizens of maintaining financial services in these circumstances.

Therefore, the Department recommends that institutions review their disaster preparation plans. The institution’s disaster preparation plan should include any special provisions for check cashing during a disaster, either by depositors or non-depositors, including procedures for the resolution of issues involving identification and coordination with check issuers. The institution’s disaster preparation plan should also include any special provisions for the handling of wire transfers, opening of accounts, meeting credit needs and/or waiving certain fees following a catastrophic event.

The Department also reminds institutions that they should be prepared to execute directives following a disaster or catastrophic event declaration by the Department, which declaration may be subsequent to an emergency declaration by the Governor. Compliance with such directives will assist in maintaining the availability of banking services to our citizens in the event of a catastrophic event and will mitigate its impact.

New Jersey statutes (N.J.S.A. 17:9A-23.50 *et seq.*) authorize a bank's officers to use their judgment to make the decision to close one or more offices, whether or not the Commissioner has proclaimed an emergency. N.J.S.A. 17:9A-23.54 addresses immunity from liability for losses resulting from bank closings attributable to emergencies as defined in N.J.S.A. 19:9A-23.50.

Comparable provisions are contained in N.J.S.A. 17:12B-46.1, *et seq.* with respect to actions by the officers of savings and loan associations during an emergency.

Credit unions should take reasonable steps to adopt emergency by-laws establishing the terms and conditions for continuity of services during an emergency, in accordance with powers afforded by the Credit Union Act of 1984, at N.J.S.A. 17:13-89l, N.J.S.A. 17:13-89m (credit unions have all corporate powers established in Title 14A not inconsistent with the act), and N.J.S.A. 14A:2-10 (By-laws and other powers in emergency). Under N.J.S.A. 14A:2-10(7), actions taken in accordance with duly promulgated emergency by-laws may shield a credit union's officers, directors and employees from liability.

October 25, 2012
Date



Kenneth E. Kobylowski
Acting Commissioner