

**BANKING**

**DEPARTMENT OF BANKING AND INSURANCE**

**DIVISION OF BANKING**

**Department Organization**

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

Authorized By: Garret Komjathy, Director, Division of Banking, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1-14, 17:1-15e and 47:1A-2.

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

Proposal Number: PRN 2010-172.

Submit comments by October 15, 2010 to:

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The agency proposal follows:

**Summary**

The Department of Banking and Insurance (Department) proposes to readopt N.J.A.C. 3:3 which is scheduled to expire on January 25, 2011, pursuant to N.J.S.A. 52:14B-5.1c. The Department has reviewed N.J.A.C. 3:3 and determined it to be necessary, reasonable and proper for the purpose for which it was originally promulgated. N.J.A.C. 3:3 consists of four subchapters.

N.J.A.C. 3:3-1, Mission and Organization, sets forth the mission statement and organizational structure of the Department.

N.J.A.C. 3:3-1.2 currently exhibits the organizational structure of the Department dated May 2005. Pursuant to authority of N.J.S.A. 17:1-8.1 and 17:1-15e, the Department proposes to update the organizational chart of the Department depicted at N.J.A.C. 3:3-1.2.

N.J.A.C. 3:3-2, Nonpublic Records, identifies those documents maintained by the Department that are not subject to public disclosure or copying pursuant to N.J.S.A. 47:1A-1 et seq.

N.J.A.C. 3:3-3, Disability Discrimination Grievance Procedure, sets forth the rules and internal grievance procedures adopted by the Department in satisfaction of the requirements of the Americans with Disabilities Act (ADA) and the regulations promulgated pursuant thereto, 28 CFR 35.107.

N.J.A.C. 3:3-4, Petitions For Rules; Rulemaking Notice, sets forth rules and procedures for petitions made for the promulgation, amendment or repeal of any rule by the Department pursuant to N.J.S.A. 52:14B-4(f). These rules set forth the requirements for a public comment period extension or a public hearing when sufficient public interest is established, and set forth the rulemaking notice the Department will provide.

N.J.A.C. 3:3-4.5(b) currently provides that the Commissioner shall consider the application of an interested person for a public hearing that has been submitted on a form

prescribed by the Commissioner and that such application shall be submitted within 60 days following the publication of the notice of proposal in the New Jersey Register. The Department proposes to amend the submission time requirement in N.J.A.C. 3:3-4.5(b) from 60 days to 30 days to conform to N.J.S.A. 52:14B-4(a)(3).

The Department has determined that the comment period for this proposal shall be 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this proposal is excepted from the rulemaking calendar requirement.

### **Social Impact**

The rules proposed for readoption with amendments will continue to inform the general public of the mission and organization of the Department, and whether documents maintained by the Department are public or nonpublic records under Open Public Records Act, N.J.S.A. 47:1A-1 et seq. (OPRA). In addition, the rules proposed for readoption will continue to provide internal grievance procedures adopted by the Department in satisfaction of the requirements of the ADA, and rules and procedures applicable to petitions for the promulgation, amendment or repeal of any rule by the Department of Banking and Insurance. The rules proposed for readoption with amendments will continue to provide the public with guidelines for participating in the rulemaking process and provide an accurate description of the organization and the workings of the Department. Their readoption will have a beneficial social impact in that they will enhance the public's understanding of how the Department is organized and operates. This will foster greater public input into the Department's regulatory actions.

### **Economic Impact**

The readoption with amendments of N.J.A.C. 3:3-1 will have no substantial economic impact on the general public, the banking industry or the Department since N.J.A.C. 3:3-1 primarily serves an informational purpose. N.J.A.C. 3:3-2 will have no negative economic impact on the public as this section will continue to delineate which documents filed with or maintained by the Department, and specifically the Division of Banking, are not subject to public inspection. By recognizing legitimate privacy interests of regulated individuals and entities, those individuals and entities may be encouraged to engage in banking and other financial activities in this State. N.J.A.C. 3:3-3 has a positive economic impact as it enables persons with disabilities to resolve disputes that may result in enhanced employment opportunities with, or access to, the Department. There is no negative economic impact from this subchapter on the general public or the Department. The readoption of N.J.A.C. 3:3-4 with amendment will not impose any negative economic impact upon the public or the Department, but will continue to facilitate public notice and the opportunity for public participation in the rulemaking process.

### **Federal Standards Statement**

A Federal standards analysis is not required for Subchapters 1 and 2 of the rules proposed for readoption with amendments because those subchapters are not subject to any Federal requirements or standards as they concern the organizational structure of the Department and delineate records of the Department that are nonpublic. Subchapter 3 of the rules proposed for readoption implements the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq. and the regulations promulgated thereunder, 28 CFR 35.107. These requirements are identical to, and therefore do not exceed, Federal standards. Subchapter 4 of the rules proposed for readoption with amendment does not contain requirements that exceed any Federal requirements or

standards. Those rules represent policies of the State of New Jersey regarding matters of State law that are independent of Federal requirements or standards.

### **Jobs Impact**

The Department does not anticipate that any jobs will be lost or generated as a result of the rules proposed for readoption with amendments at N.J.A.C. 3:3.

### **Agriculture Industry Impact**

The Department does not expect that any agriculture industry impact will result from the rules proposed for readoption with amendments at N.J.A.C. 3:3.

### **Regulatory Flexibility Analysis**

Subchapters 1, 2 and 3 proposed for readoption and amendment do not result in any costs to small businesses within the meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., because there are no recordkeeping, compliance or reporting requirements imposed on small businesses. However, Subchapter 4 imposes compliance requirements on small businesses licensed or otherwise authorized by the Department and administered by the Division of Banking, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., by specifying requirements applicable to petitions for rulemaking and applications demonstrating sufficient public interest for a public hearing on a rulemaking proposal. Small businesses affected by these requirements will incur only insignificant administrative costs in submitting such a petition or application. No professional services are required for compliance so these small businesses should be able to comply with the rules utilizing existing staff and resources. As

the petition and application information is necessary to properly evaluate the requests, no lesser requirements or exceptions are provided for small businesses.

### **Smart Growth Impact**

The rules proposed for readoption and amendments will have no impact on the achievement of growth and implementation of the State Development and Redevelopment Plan.

### **Housing Affordability Impact**

The rules proposed for readoption with amendments will not have an impact on housing affordability because the rules proposed for readoption with amendments inform the general public of the mission and organization of the Department, establish nonpublic records, set forth the disability discrimination grievance procedure, and address petitions for rulemaking and rulemaking notices.

### **Smart Growth Development Impact**

The Department believes that there is an extreme unlikelihood that the rules proposed for readoption with amendments would evoke a change in the housing production in Planning Areas 1 and 2 or within the designated centers under the State Development and Redevelopment Plan in New Jersey because the rules proposed for readoption with amendments inform the general public of the mission and organization of the Department, establish nonpublic records, set forth the disability discrimination grievance procedure, and address petitions for rulemaking and rulemaking notices.

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

**Full text** of the proposed amendments follows (addition indicated in boldface **thus**; deletion indicated in brackets [thus]):

### 3:3-1.2 Organization of the Department

(a) The organization of the Department of Banking and Insurance appears below.

**(Agency Note:** The Department Organization Chart below is proposed to replace the chart currently set forth in this section, which is not reproduced in this notice of proposal.)

### 3:3-4.5 Sufficient public interest for the purposes of extending the comment period or granting a public hearing

(a) (No change.)

(b) In determining whether sufficient public interest has been demonstrated for purposes of conducting a public hearing pursuant to N.J.A.C. 1:30-5.5, the Commissioner shall consider the application of an interested person that has been submitted on a form prescribed by the Commissioner. Such application shall be submitted within [60] **30** days following the publication of the notice of proposal in the New Jersey Register.

1. (No change.)

(c) – (e) (No change.)