

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

BANKING

(a)

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF BANKING

Department Organization

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

Authorized By: Richard J. Badolato, Commissioner, Department of Banking and Insurance.

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

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

Proposal Number: PRN 2017-269.

Submit comments by February 2, 2018, to:

Denise Illes, Chief
Office of Regulatory Affairs
New Jersey Department of Banking and Insurance
20 West Street
PO Box 325
Trenton, NJ 08625-0325
Fax: (609) 292-0896
E-mail: legsregs@dobi.nj.gov

The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes to readopt N.J.A.C. 3:3, which was scheduled to expire on November 30, 2017, pursuant to N.J.S.A. 52:14B-5.1. In accordance with N.J.S.A. 52:14B-5.1.c.(2), the filing of this notice of proposal to readopt with amendments with the Office of Administrative Law prior to that date extends the expiration date 180 days to May 29, 2018.

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. The Department proposes three subchapters for amendment. The proposed amendments include the following: updating the organizational chart, the rule concerning government records, and updating the Department's website address.

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

N.J.A.C. 3:3-1.2 currently exhibits the organizational structure of the Department effective January 3, 2011. The Department proposes to update the organizational chart of the Department depicted at N.J.A.C. 3:3-1.2 to focus on the Division of Banking.

N.J.A.C. 3:3-2, Nonpublic Records, identifies "nonpublic records" maintained by the Department that are not subject to public inspection, copying, or examination pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. (OPRA). OPRA uses the nomenclature "government record," and not "public record," as is used in the existing rules. Accordingly, the Department proposes to amend this subchapter to update the terminology from "public record" to "government record," along with the term "nonpublic record" to "confidential record."

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).

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. 3:3-4.4(a) is proposed to be amended to update the website address of the Department.

The Department has determined that the comment period for this notice of proposal shall be 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice 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 the organization of the Department, and whether certain documents maintained by the Department are government records under OPRA. In addition, the rules proposed for readoption with amendments 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. 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 Division of Banking within the Department. The rules proposed for readoption with amendments 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. The readoption with amendments to N.J.A.C. 3:3-2 will have no negative economic impact on the public as this subchapter 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, copying, or examination under OPRA. 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. The reoption with amendments of 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 reoption of N.J.A.C. 3:3-4 with amendments 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 Subchapter 1 of the rules proposed for reoption with amendments because that subchapter is not subject to any Federal requirements or standards as they concern the organizational structure of the Department. Subchapter 2 of the rules proposed for reoption with amendments delineates records of the Department that are government records pursuant to OPRA, and does not contain requirements that exceed any Federal requirements or standards. Subchapter 3 of the rules proposed for reoption with amendments implements the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq. and the regulations promulgated thereunder. These requirements are identical to, and, therefore, do not exceed, Federal standards. Subchapter 4 of the rules proposed for reoption with amendments does not contain requirements that exceed any Federal requirements or standards. The rules proposed for reoption with amendments 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 reoption with amendments.

Agriculture Industry Impact

The Department does not expect that any agriculture industry impact will result from the rules proposed for reoption with amendments.

Regulatory Flexibility Analysis

Subchapters 1, 2, and 3 proposed for reoption with amendments 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 and only if they choose to submit the same. 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.

Housing Affordability Impact Analysis

The rules proposed for reoption with amendments will not have an impact on housing affordability or the average costs associated with housing because the rules proposed for reoption with amendments inform the general public of the mission and organization of the Department, addresses public records, discrimination grievance procedures, and handling petitions for rules.

Smart Growth Development Impact Analysis

The Department believes that there is an extreme unlikelihood that the rules proposed for reoption with amendments would evoke a change in housing production in Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules proposed for reoption with amendments inform the general public of the mission and organization of the Department, addresses public records, discrimination grievance procedures, and handling petitions for rules.

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

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

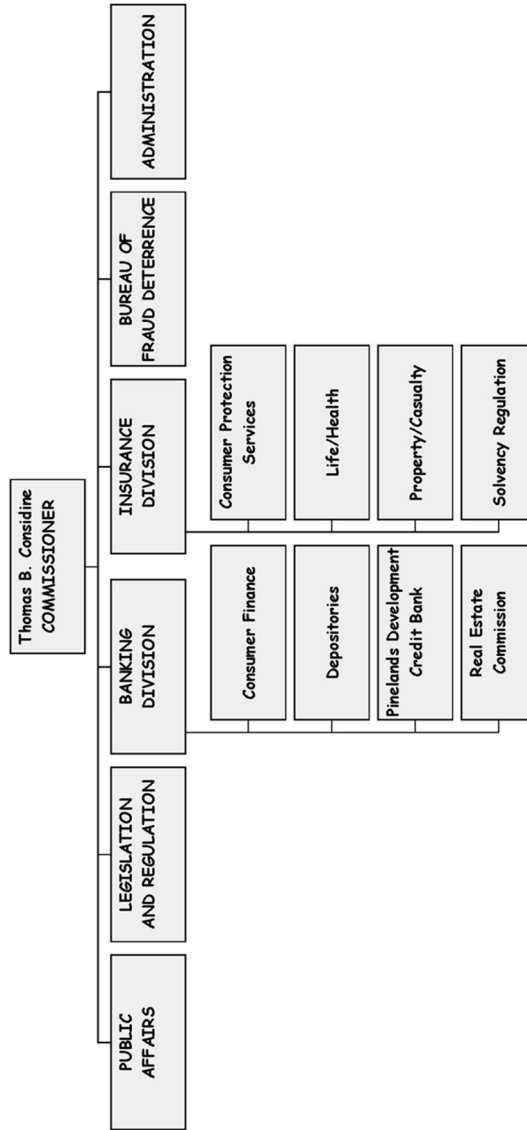
SUBCHAPTER 1. MISSION AND ORGANIZATION

3:3-1.2 Organization of the [Department] **Division**

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

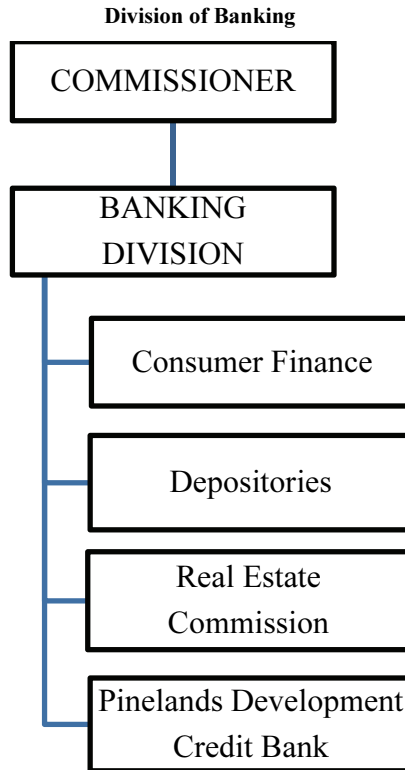
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DEPARTMENT OF BANKING AND INSURANCE



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DEPARTMENT OF BANKING AND INSURANCE



SUBCHAPTER 2. [NONPUBLIC] CONFIDENTIAL RECORDS

3:3-2.1 [Nonpublic] **Confidential** records
 (a) Throughout the Department of Banking and Insurance, the following shall [not] be deemed to be [public] **confidential and not government** records pursuant to N.J.S.A. 47:1A-1 et seq.
 1.-7. (No change.)
 8. Personnel or pension records of an individual employed by the Department, except that the following **information** shall **not** be deemed [public records] **confidential**:
 i.-ii. (No change.)
 9.-10. (No change.)
 (b) The fact that a document is not listed in (a) above shall not be construed as evidence that the document is a [public] **government** record for purposes of N.J.S.A. 47:1A-1 et seq.

SUBCHAPTER 4. PETITIONS FOR RULES; RULEMAKING NOTICE

3:3-4.4 Rulemaking activity
 (a) The Department shall provide notice of new rules, amendments, repeals, or adoptions by posting these rules on its website at [<http://www.state.nj.us/dobi/legsregs.htm>] <http://www.nj.gov/dobi/legsregs.htm> and to the news media maintaining a press office in the State House Complex.
 (b) (No change.)

INSURANCE

(a)

DEPARTMENT OF BANKING AND INSURANCE
 DIVISION OF INSURANCE

Insurance Group

Proposed Readoption with Amendments: N.J.A.C. 11:2

Authorized By: Richard J. Badolato, Commissioner, Department of Banking and Insurance.
 Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, 17:17-1 et seq., 17B:17-1 et seq., 34:15-77, and 54:18A-1 et seq.
 Calendar Reference: See Summary below for explanation of exception to calendar requirement.
 Proposal Number: PRN 2017-267.

Submit comments by February 2, 2018, to:

Denise M. Illes, Chief
 Office of Regulatory Affairs
 Department of Banking and Insurance
 PO Box 325
 Trenton, New Jersey 08625-0325
 Fax: (609) 292-0896
 E-mail: legsregs@dobi.nj.gov

The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes to readopt with amendments N.J.A.C. 11:2, concerning insurance group rules as discussed below. This chapter was due to expire on January 6,