

# BANKING

(a)

## DEPARTMENT OF BANKING AND INSURANCE

### DIVISION OF BANKING

#### Department Organization

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

Proposed: December 4, 2017, at 49 N.J.R. 3647(a).

Adopted: May 25, 2018, by Marlene Caride, Acting Commissioner, Department of Banking and Insurance.

Filed: May 29, 2018, as R.2018 d.127, **without change**.

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

Effective Dates: May 29, 2018, Readoption;  
July 2, 2018, Amendments.

Expiration Date: May 29, 2025.

#### Summary of Public Comment and Agency Response:

**No comments were received.**

#### Federal Standards Statement

A Federal standards analysis is not required for Subchapter 1 of the rules readopted with amendments because that subchapter is not subject to any Federal requirements or standards as they concern the

organizational structure of the Department of Banking and Insurance (Department). Subchapter 2 of the rules readopted with amendments delineates records of the Department that are government records pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. (OPRA), and does not contain requirements that exceed any Federal requirements or standards. Subchapter 3 of the readopted rules 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 readopted with amendments does not contain requirements that exceed any Federal requirements or standards. The rules readopted with amendments represent policies of the State of New Jersey regarding matters of State law that are independent of Federal requirements or standards.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 3:3.

**Full text** of the adopted amendments follows:

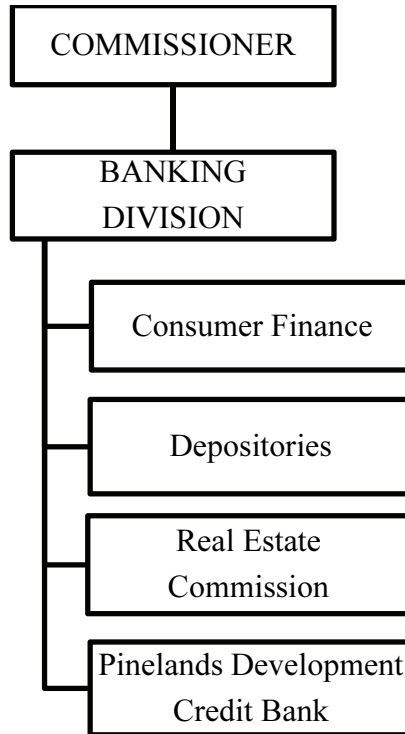
#### SUBCHAPTER 1. MISSION AND ORGANIZATION

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

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

#### DEPARTMENT OF BANKING AND INSURANCE

##### Division of Banking



## SUBCHAPTER 2. CONFIDENTIAL RECORDS

## 3:3-2.1 Confidential records

(a) Throughout the Department of Banking and Insurance, the following shall be deemed to be 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 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 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.nj.gov/dobi/legregs.htm> and to the news media maintaining a press office in the State House Complex.

(b) (No change.)

## COMMUNITY AFFAIRS

### (a)

#### NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

##### New Jersey Housing and Mortgage Finance Agency Rules

##### Adopted Repeals and New Rules: N.J.A.C. 5:80-6.2, 6.3, 22.1, 32.2, and 32.3

##### Adopted Repeals: N.J.A.C. 5:80-6.4, 6.9, 10, 22.2 through 22.24, 24, 32.4, 32.5, 32.6, and 5:80-32 Appendix

##### Adopted Amendments: N.J.A.C. 5:80-5.1, 5.9, 6.1, 6.5, 6.6, 6.7, 6.8, 6.10, 6.11, 9.14, 22.25, 32.1, and 32.7

Proposed: June 19, 2017, at 49 N.J.R. 1595(a).

Adopted: May 17, 2018, by the New Jersey Housing and Mortgage Finance Agency, Charles Richman, Executive Director.

Filed: June 7, 2018, as R.2018 d.132, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3) **and with the proposed repeal of N.J.A.C. 5:80-9.13 not adopted.**

Authority: N.J.S.A. 55:14K-5.g.

Effective Date: July 2, 2018.

Expiration Date: September 14, 2024.

#### Summary of Public Comment and Agency Response:

**No comments were received.**

#### Summary of Agency-Initiated Changes:

As part of the rulemaking, the Agency proposed to repeal N.J.A.C. 5:80-9.13, which provides an alternate procedure for implementing rent increases at low- and/or moderate-income housing projects without Federal project-based rent subsidies, and to amend N.J.A.C. 5:80-9.14(a) and (b), regarding resident monthly fee increases for low- and/or moderate-income restricted units in assisted living residences (ALRs) in light of the proposed repeal of N.J.A.C. 5:80-9.13 and to correct a longstanding error of syntax. The Agency has determined not to adopt the proposed repeal of N.J.A.C. 5:80-9.13 and the proposed non-

technical amendments at N.J.A.C. 5:80-9.14(a) and (b) at this time. The Agency intends to propose a new rule and the amendment and recodification of certain of its rent rules at N.J.A.C. 5:80-9, of which N.J.A.C. 5:80-9.13 and 9.14 are a part. The Agency believes the proposed repeal of N.J.A.C. 5:80-9.13 and the proposed substantive amendments to N.J.A.C. 5:80-9.14 are best considered and evaluated in conjunction with that anticipated rulemaking. The Agency, therefore, intends to re-propose those actions as a part of the rulemaking related to rents.

#### Federal Standards Statement

The adopted repeals, new rules, and amendments do not exceed any standards or requirements imposed by any known Federal laws or regulations. The adopted substantial repeal and new rule and amendment of the Affirmative Fair Housing Marketing Plan rules at N.J.A.C. 5:80-22 are specifically intended to comply with the express State policy of reducing “confusion and costs” by eliminating an unnecessary State standard where it has been determined that an analogous Federal counterpart adequately protects the welfare of New Jersey citizens. See N.J.S.A. 52:14B-22.

**Full text** of the adopted new rules and amendments follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***):

## SUBCHAPTER 5. TRANSFER OF OWNERSHIP INTERESTS

## 5:80-5.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

## 5:80-5.9 Required payment and repayments

(a) At closing, the following payments and repayments are required:

Recodify existing 2.-4. As 1.-3. (No change in text.)

(b) The Portfolio Reserve Account is a fund previously established by the Agency to provide support for any project financed by the Agency that is in need of financial assistance. The source of such fund was previously codified at (a)1 above, which was deleted effective **\*[(effective date of this amendment)]\* \*July 2, 2018\***. The Portfolio Reserve Account, and any interest or investment income earned thereon, may be used, at the Agency’s discretion, to fund debt service arrears and other operating deficits, capital improvements, and repairs of any project that cannot fund these items from normal project income. The Portfolio Reserve Account enables the Agency to assist projects in maintaining physical and fiscal viability, so as to preserve the housing units at rents that are affordable to low- and moderate-income families. Eligibility for assistance from the Portfolio Reserve Account shall be subject to the terms and conditions as determined by the Agency.

## SUBCHAPTER 6. USE OF FUNDS FROM SALE OF PROJECTS OWNED BY NONPROFIT CORPORATIONS TO LIMITED PARTNERSHIPS

## 5:80-6.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Community Development Escrow” or “CDE” means that fund established pursuant to a conversion, intended primarily for use in assisting community improvements, activities, or services related to a project.

“Conversion” means the overall transaction by which ownership of a project was transferred from a nonprofit entity to a profit-motivated partnership.

“Development Cost Escrow” or “DCE” means that fund established pursuant to a conversion, intended primarily for use in improving or supporting a project itself.

“Nonprofit” means the nonprofit owner of a project that conveyed its interest in the project and assigned its Agency mortgage on the premises to a profit-motivated partnership.