

RULE ADOPTIONS

BANKING

(a)

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF BANKING

Notice of Readoption

General Provisions

Readoption: N.J.A.C. 3:6

Authority: N.J.S.A. 17:1-8, 8.1, and 15; and 17:9A-24, 24b.1, 28.2, 31, 43, 62H, 71 through 74, 183.1, 195, 256A, 333, and 334.

Authorized By: Marlene Caride, Commissioner, Department of Banking and Insurance.

Effective Date: December 1, 2021.

New Expiration Date: December 1, 2028.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 3:6 were scheduled to expire on April 9, 2021. Pursuant to Executive Order Nos. 127 (2020) and 244 (2021) and P.L. 2021, c. 103, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) is extended through January 1, 2022. Therefore, this chapter has not yet expired and the 30-day filing date pursuant to N.J.S.A. 52:14B-5.1.c has not yet occurred, therefore, pursuant to Executive Order No. 244 (2021), and P.L. 2021, c. 103, this notice of readoption is timely filed.

The rules contain general provisions for banks and savings banks. The chapter includes provisions for approved depositories for investments comprising security funds, limits on loans to an executive officer, and Federal funds transactions. Additionally, the chapter includes provisions governing: short term investment of cash in fiduciary accounts; conversion of mutual savings banks to mutual associations and conversion of capital stock savings banks to a bank; unsecured days funds transactions; and short-term investments for trust cash. The chapter also includes provisions concerning State bank and savings bank parity with Federal and out-of-State institutions; the registration of foreign banks operating in New Jersey; and permitted loans for savings bank officers and managers. In addition, the chapter includes provisions governing the acquisition of underwritten securities by qualified banks and conversion by a bank to a capital stock savings bank.

The Department of Banking and Insurance has reviewed these rules and has determined that the rules should be readopted without change. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

(b)

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF BANKING

Notice of Readoption

Predatory Lending

Readoption with Technical Changes: N.J.A.C. 3:30

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, and 46:10B-22 through 35; and P.L. 2004, c. 84.

Authorized By: Marlene Caride, Commissioner, Department of Banking and Insurance.

Effective Dates: November 30, 2021, Readoption;
January 3, 2022, Technical Changes.

Expiration Date: November 30, 2028.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 3:30 were scheduled to expire on February 12, 2021. Pursuant to Executive Order Nos. 127 (2020) and 244 (2021) and P.L. 2021, c. 103, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) is extended through January 1, 2022. Therefore, this chapter has not yet expired and the 30-day filing date pursuant to N.J.S.A. 52:14B-5.1.c has not yet occurred, therefore, pursuant to Executive Order No. 244 (2021), and P.L. 2021, c. 103, this notice of readoption is timely filed.

These rules address predatory lending in this State. The rules implement the New Jersey Home Ownership Security Act of 2002, N.J.S.A. 46:10B-22 through 35, and the amendments to that statute effectuated by P.L. 2004, c. 84, signed into law on July 6, 2004 (hereinafter collectively referred to as the "Act"). The Act addresses abusive lending practices and is designed to regulate certain home loans that can be harmful to consumers.

The Department of Banking and Insurance (Department) is readopting N.J.A.C. 3:30, with technical changes.

N.J.A.C. 3:30-1.1 sets forth that the purpose of the chapter is to implement the New Jersey Home Ownership Security Act of 2002, N.J.S.A. 46:10B-22 through 35.

N.J.A.C. 3:30-1.2 sets forth that this chapter shall apply to all creditors and borrowers as defined at N.J.A.C. 3:30-1.3.

N.J.A.C. 3:30-1.3 contains the definitions of the words and terms used in the chapter.

N.J.A.C. 3:30-2, 3, and 4 are reserved.

N.J.A.C. 3:30-5 sets forth the requirements for posting payments received from borrowers. The rules require depository institutions, that is, banks, savings banks, savings and loans, and credit unions, to post a payment on the banking day it is received. The rules require that all other creditors post a payment on the business day it is received.

N.J.A.C. 3:30-6 and 7 are reserved.

N.J.A.C. 3:30-8 codifies the Act's provisions limiting borrowers' affirmative claims or defenses to the amounts required to reduce or extinguish liability under a home loan, plus the amount paid in connection with such a transaction, plus costs. N.J.A.C. 3:30-8.1 applies to a home loan made, arranged, or assigned by a seller of manufactured homes or of home improvements and applies to loans that were made by, or through, a creditor to whom the borrower was referred by such a seller. The section provides that borrowers on such loans may assert against the original creditors and any purchasers or assignees of the loans referenced in the section all affirmative claims or any defenses the borrower may have against a seller of manufactured homes or of home improvements, including any claims and defenses available under the Act against a home improvement contractor who was retained by a seller of home improvements to make home improvements on the borrower's dwelling. Claims or defenses related to the quality of the workmanship of the home improvement contractor, as opposed to claims and defenses related to the financing of the purchase of the home improvements, would not be among those that could be asserted by the borrower pursuant to this section.

N.J.A.C. 3:30-8.2(a) specifies actions that may be taken by purchasers or assignees of a high cost-home loan on the basis of which the Department will presume, for purposes of administrative liability, that the purchaser or assignee has exercised reasonable due diligence in its efforts to determine whether a loan it purchased or on which it took an assignment was a high-cost home loan. N.J.A.C. 3:30-8.2(b), (c), and (d) codify the Act's provisions limiting the liability of purchasers and assignees of high-cost home loans. Different limitations, based on particular factual situations, are recited in these respective subsections. Subsections (e), (g), (h), (i), and (j) explain the interaction of the Act with the New Jersey Consumer Fraud Act, set forth compliance standards applicable to purchaser or assignee liability, and reiterate the statutory prohibition against dividing transactions into parts or engaging in other subterfuges in an attempt to evade the Act. N.J.A.C. 3:30-8.2(f) states that the limitations on assignee liability are limited to only the grounds set forth at N.J.S.A.