

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 96

STATE OF NEW JERSEY

ADOPTED JUNE 20, 1996

Sponsored by Assemblymen AZZOLINA, GARRETT
and Augustine

1 AN ACT merging the Departments of Banking and Insurance and
2 revising various parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) This act shall be known and may be cited as the
8 "Department of Banking and Insurance Act of 1996."

9

10 2. R.S.17:1-1 is amended to read as follows:

11 17:1-1. The Department of Banking and Insurance, hereinafter in
12 **[this Title] Title 17 of the Revised Statutes and Title 17B of the New**
13 **Jersey Statutes** designated as the "department," created and established
14 by an act entitled "An act to establish a Department of Banking and
15 Insurance," approved February 10th, one thousand eight hundred and
16 ninety-one (L.1891, c.6, p.17), and charged with the execution of all
17 laws relative to insurance, banking, savings, trust, guarantee, safe
18 deposit, indemnity, mortgage, investment and loan corporations **[is]**,
19 continued and **[is hereby]** constituted as a principal department in the
20 executive branch of the State Government by the "Department of
21 Banking and Insurance Act of 1948," P.L.1948, c.88 (C.17:1-
22 1.1 et al.), is reconstituted as a principal department in the executive
23 branch of State Government by this 1996 amendatory and
24 supplementary act. The department, having been divided into two
25 separate principal departments, the Department of Banking, pursuant
26 to P.L.1970, c.11 (C.17:1B-1 et seq.), and the Department of
27 Insurance, pursuant to P.L.1970, c.12 (C.17:1C-1 et seq.), is
28 recombined and designated as the Department of Banking and
29 Insurance by this 1996 amendatory and supplementary act. Such
30 department shall be vested with all the powers and charged with all the
31 duties and subject to all the obligations and penalties which, on

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 February 10th, one thousand eight hundred and ninety-one, were
2 vested in, conferred and imposed upon the Secretary of State, acting
3 as commissioner of insurance, or upon the board of bank
4 commissioners or any other officer or board charged with the
5 execution of the laws relative to subjects herein above recited, [as also
6 building and loan corporations or associations organized under the
7 laws of other States, transacting or to be admitted to transact business
8 in this State] as well as any additional duties, powers, and obligations
9 prescribed in this 1996 amendatory and supplementary act or by any
10 other law.

11 All the powers, functions and duties of the existing Department of
12 Banking and Department of Insurance and the commissioners thereof
13 are continued in the Department of Banking and Insurance, and in the
14 office of the commissioner thereof.

15 (cf: P.L.1948, c.88, s.1)

16

17 3. R.S.17:1-2 is amended to read as follows:

18 17:1-2. a. The head of the reconstituted department, to be
19 denominated the Commissioner of Banking and Insurance and
20 hereinafter in [this] Title 17 of the Revised Statutes and Title 17B of
21 the New Jersey Statutes, designated the "commissioner," shall be
22 appointed by the Governor, with the advice and consent of the Senate,
23 and shall serve at the pleasure of the Governor during the Governor's
24 term of office and until the appointment and qualification of the
25 commissioner's successor. The person in office as the Commissioner
26 of Insurance on June 30, 1996, shall at the pleasure of the Governor
27 hold the office of Commissioner of Banking and Insurance
28 reestablished by this 1996 amendatory and supplementary act for the
29 unexpired term for which the commissioner was appointed, and until
30 a successor is appointed and qualified. No person shall be appointed
31 commissioner who is in any way connected with the management or
32 control of any corporation, firm, association, institution, or licensee
33 affected by [this chapter] Title 17 of the Revised Statutes or Title 17B
34 of the New Jersey Statutes, and [he] the commissioner shall
35 immediately be dismissed from office if at any time [he] the
36 commissioner becomes so interested. [Before entering upon the
37 discharge of his duties the commissioner shall give bond, conditioned
38 for the faithful discharge of his duties, in the sum of twenty-five
39 thousand dollars (\$25,000.00) with two good and sufficient sureties,
40 freeholders of this State to be approved by the Governor, and take an
41 oath of office before one of the justices of the Supreme Court in form
42 similar to that required of the Secretary of State. The bond and oath
43 of office shall be filed in the Department of State.

44 The commissioner shall have no dealings or transactions in any
45 capacity with any bank or trust company under the jurisdiction of the
46 department save in the strict performance of his duties, except the

1 institutions with which he was dealing prior to his appointment, under
2 penalty of immediate dismissal from his office of employment.

3 No deputy commissioner or examiner in the department shall have
4 any dealings or transactions in any capacity with any bank or trust
5 company under the jurisdiction of the department save in the strict
6 performance of his duties, under penalty of immediate dismissal from
7 his office or employment.]

8 The commissioner shall receive such salary as shall be provided by
9 law.

10 [The commissioner shall coordinate the activities of the
11 department.]

12 The commissioner shall devote full time to the performance of the
13 duties of commissioner.

14 b. Neither the commissioner nor any officer or employee of the
15 department shall have any ownership of, interest in, or any dealings or
16 transactions in any capacity with any financial institution, insurance
17 company or other entity chartered, licensed or regulated by the
18 department, except in the strict performance of the commissioner's,
19 officer's or employee's duties. This prohibition shall not preclude the
20 commissioner, or officers or employees of the department from
21 continuing routine banking services with financial institutions,
22 including but not limited to, mortgages, checking and savings
23 accounts, and personal loans, entered into prior to their employment,
24 or from establishing banking accounts and from obtaining loans and
25 other services normally obtained by members of the general public, or
26 from obtaining insurance or making claims involving their person,
27 property or affairs, under the same terms and conditions as are
28 available to members of the general public. This prohibition shall not
29 apply to investments in mutual funds, deferred compensation plans,
30 blind trusts, or similar investments, in which the commissioner, officer
31 or employee does not make or influence the selection of individual
32 investments.

33 No department examiner shall examine any entity with which the
34 examiner conducts personal or family banking or insurance activities.

35 Any violation of this section shall be cause for dismissal of the
36 violation by the appointing authority.

37 (cf: P.L.1948, c.88, s.2)

38

39 4. (New section) a. The commissioner may appoint such deputy
40 commissioners and assistant commissioners as the commissioner shall
41 deem necessary, to serve at the pleasure of the commissioner, subject
42 to the provisions of Title 11A of the New Jersey Statutes. Each
43 deputy or assistant commissioner shall exercise those powers and
44 perform those duties of the commissioner as the commissioner may
45 prescribe or delegate under the commissioner's direction and
46 supervision. Subject to the provisions of paragraph (2) of subsection

1 d. and paragraph (2) of subsection e. of this section, the commissioner
2 shall designate one or more department officials to exercise the powers
3 and perform the duties of the commissioner during the commissioner's
4 absence, disability, or when otherwise specified by the commissioner.

5 b. Subject to applicable laws and the provisions of subsections d.
6 and e. of this section, the commissioner shall have the authority to
7 establish, engage, organize, and maintain in the department
8 administrative personnel and structure as the commissioner deems
9 necessary to perform all personnel, planning and budget and finance
10 responsibilities, examinations, investigations, regulatory
11 responsibilities or other duties or services as may be required for the
12 efficient and effective operation of the department.

13 c. There is established within the Department of Banking and
14 Insurance, a Division of Banking and a Division of Insurance. The
15 Department of Banking and Insurance shall be organized so that,
16 subject to the supervision of the commissioner, the Director of the
17 Division of Banking shall be in charge of the functions and duties that
18 relate to banking and supervise and regulate those entities previously
19 supervised and regulated by the Department of Banking, and the
20 Director of the Division of Insurance shall be in charge of the
21 functions and duties that relate to insurance and supervise and regulate
22 those entities previously supervised and regulated by the Department
23 of Insurance.

24 d. The Director of the Division of Banking shall be appointed by
25 the Governor, with the advice and consent of the Senate, and shall
26 serve at the pleasure of the Governor, provided however, that the
27 person in office as the Deputy and Acting Commissioner of Banking
28 on June 30, 1996, shall, at the pleasure of the Governor, hold the
29 office of Director of the Division of Banking. The director shall
30 devote his entire time and attention to the duties of his office. The
31 Director of the Division of Banking shall not, within the five years
32 immediately preceding appointment as Director of the Division of
33 Banking, have been employed by, acted as agent or contractor for, or
34 managed or controlled any entity, other than an entity affiliated with
35 a banking institution as defined pursuant to section 1 of P.L.1948, c.67
36 (C.17:9A-1), that was engaged in the insurance business pursuant to
37 Subtitle 3 of Title 17 of the Revised Statutes, Title 17B of the New
38 Jersey Statutes, or P.L.1973, c.337 (C.26:2J-1 et seq.), except that the
39 provision shall not apply to any person appointed as Director of the
40 Division of Banking on or before September 1, 1996. The duties and
41 responsibilities of the Director of the Division of Banking shall include
42 the following:

43 (1) to organize the work of the Division of Banking into the
44 offices, bureaus and other organizational units as the director may
45 determine, subject to the approval of the commissioner;

46 (2) in the absence of the commissioner, to be acting commissioner

1 for all matters relating to banking;

2 (3) to review all banking institutions and other lenders and
3 depository institutions, other than insurance entities, to ensure the
4 safety and soundness of those institutions, and to make
5 recommendations to the commissioner for appropriate action to ensure
6 the safety and soundness of the institutions;

7 (4) to monitor the comparability of New Jersey laws and
8 regulations with the laws and regulations governing federally chartered
9 banks, savings banks and credit unions and to prepare for inclusion in
10 the department's annual report required pursuant to subsection h. of
11 section 6 of this 1996 amendatory and supplementary act, a report on
12 the operation of the dual banking system in New Jersey;

13 (5) to exercise those powers and perform those duties as the
14 commissioner may prescribe or delegate under the commissioner's
15 direction and supervision.

16 e. The Director of the Division of Insurance shall be appointed by
17 the Governor, with the advice and consent of the Senate, and shall
18 serve at the pleasure of the Governor, provided however, that the
19 person in office as Deputy Commissioner of Insurance for Property
20 and Casualty on June 30, 1996, shall, at the pleasure of the Governor,
21 hold the office of Director of the Division of Insurance. The director
22 shall devote his entire time and attention to the duties of his office.
23 The Director of the Division of Insurance shall not, within the five
24 years immediately preceding appointment as Director of the Division
25 of Insurance, have been employed by, acted as agent or contractor for,
26 or managed or controlled any entity that was engaged in the banking
27 business pursuant to Subtitle 2 of Title 17 of the New Jersey Statutes,
28 except that the provision shall not apply to any person appointed as
29 Director of the Division of Insurance on or before September 1, 1996.
30 The duties and responsibilities of the Director of the Division of
31 Insurance shall include the following:

32 (1) to organize the work of the Division of Insurance into the
33 offices, bureaus and other organizational units as the director may
34 determine, subject to the approval of the commissioner;

35 (2) in the absence of the commissioner, to be acting commissioner
36 for all matters relating to insurance;

37 (3) to exercise those powers and perform those duties as the
38 commissioner may prescribe or delegate under the commissioner's
39 direction and supervision.

40

41 5. Section 3 of P.L.1948, c.88 (17:1-3.1) is amended to read as
42 follows:

43 3. There shall be within the Department of Banking and Insurance
44 a division which shall be known as the division of the New Jersey real
45 estate commission. The terms of office of the members of the
46 commission as of the effective date of this 1996 amendatory and

1 supplementary act shall not be affected by this act. The commission
2 shall continue to be constituted and the members thereof shall continue
3 to be appointed as provided by law.

4 (cf: P.L.1948, c.88, s.3)

5

6 6. (New section) The commissioner, as administrator and chief
7 executive office of the department, shall:

8 a. Administer the work of the department;

9 b. Appoint and remove officers and other personnel employed
10 within the department, subject to the provisions of Title 11A of the
11 New Jersey Statutes, and other applicable statutes, except as otherwise
12 specifically provided;

13 c. Perform, exercise and discharge the functions, powers and
14 duties of the department through those divisions established by law or
15 as the commissioner deems necessary;

16 d. Organize the work of the department pursuant to the structure
17 or organizational units the commissioner determines to be necessary
18 for efficient and effective operation, and which are not inconsistent
19 with the provisions of this 1996 amendatory and supplementary act;

20 e. Formulate, adopt, issue and promulgate, pursuant to the
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
22 seq.), in the name of the department, rules and regulations authorized
23 by law for the efficient conduct of the work and general administration
24 of the department, and the appropriate regulation of the institutions,
25 companies, agencies, boards, commissions, and other entities within
26 its jurisdiction, including licensees, officers and employees as
27 authorized by law;

28 f. Determine all matters of policy within the commissioner's
29 jurisdiction;

30 g. Institute or cause to be instituted the legal proceedings of
31 processes necessary to enforce properly and give effect to any of the
32 commissioner's powers or duties;

33 h. Make a report each year to the Governor and to the Legislature
34 of the department's operations for the proceeding fiscal year, and
35 render such other reports as the Governor shall from time to time
36 request, or as may be required by law;

37 i. Appoint advisory committees which may be desirable to advise
38 and assist the department or a division in carrying out its functions and
39 duties;

40 j. Perform such other functions as may be prescribed by law in this
41 act or by any other law; and

42 k. Maintain suitable headquarters for the department and such
43 other quarters as the commissioner shall deem necessary to the proper
44 functioning of the department.

1 7. (New section) For the purpose of effectuating the powers and
2 duties of the department and the commissioner, the commissioner may
3 cause to be examined under oath any and all persons whatsoever and
4 compel by subpoena upon appropriate notice the attendance of
5 witnesses and the production of such books, records, accounts, papers,
6 and other documents as are appropriate. If any person shall refuse to
7 obey a subpoena, or to produce evidence as required thereby, the
8 commissioner may apply ex parte to any court having jurisdiction over
9 that person for an order compelling the appearance of the witness to
10 give testimony or to produce evidence as required thereby, or both.
11 Any person failing to obey the court order may be punished by the
12 court for contempt.

13

14 8. R.S.17:1-8 is amended to read as follows:

15 17:1-8. The commissioner shall charge for a license and for all
16 services performed by [him] the department the fees provided in [this]
17 Title 17 of the Revised Statutes or Title 17B of the New Jersey
18 Statutes, or in lieu thereof or where not so provided, such fees as [he]
19 the commissioner shall prescribe by rule or regulation, including but
20 not limited to application fees, license fees, assessments, and charges
21 for investigations and examinations. [He]The commissioner shall
22 make [quarterly] returns to the Director of the Division of Budget and
23 Accounting of all fees and moneys collected by [him] the department,
24 and pay the sum so collected into the State Treasury.

25 (cf: P.L.1971, c.238, s.1)

26

27 9. (New section) All appropriations and other moneys available
28 and to become available to any department, division, bureau, board,
29 commission, or other entity or agency, the functions, powers and
30 duties of which have been assigned or transferred to the Department
31 of Banking or to the Department of Insurance are hereby transferred
32 to the Department of Banking and Insurance re-established by this
33 1996 amendatory and supplementary act, and shall be available for the
34 objects and purposes for which appropriated, subject to any terms,
35 restrictions, limitations, or other requirements imposed by State or
36 federal law.

37

38 10. (New section) Employees of any department, division,
39 bureau, board, commission or other agency or entity, the functions,
40 powers and duties of which have been assigned or transferred to the
41 Department of Banking or to the Department of Insurance or to any
42 agency continued or constituted therein, shall be assigned or
43 transferred pursuant to Title 11A of the New Jersey Statutes to the
44 reconstituted Department of Banking and Insurance as the
45 commissioner may determine are needed for the proper performance
46 of the duties of the department.

1 11. (New section) Nothing in this 1996 amendatory and
2 supplementary act shall be construed to deprive any person of any
3 tenure rights or of any right or protection provided him or her by Title
4 11A of the New Jersey Statutes, or under any pension law or
5 retirement system.

6
7 12. (New section) All files, books, papers, records, information
8 management systems, equipment and other property of any
9 department, division, bureau, commission, board, or other agency or
10 entity, the functions, powers and duties of which have been assigned
11 or transferred to the Department of Banking or to the Department of
12 Insurance, or to any agency designated, continued or constituted by
13 this 1996 amendatory and supplementary act, shall upon the effective
14 date of this act be assigned or transferred to the Department of
15 Banking and Insurance as directed by the commissioner or the
16 commissioner's designee.

17
18 13. (New section) With respect to the functions, powers and
19 duties continued in the Department of Banking and Insurance by this
20 1996 amendatory and supplementary act, whenever in any law, rule,
21 regulation, order, agreement, stipulation, judicial or administrative
22 proceeding or otherwise, reference is made to the Department of
23 Banking or to the Department of Insurance, or to the Commissioner
24 of Banking or to the Commissioner of Insurance, the same shall mean
25 and refer to the Department of Banking and Insurance, and the
26 Commissioner of Banking and Insurance, respectively.

27
28 14. (New section) This 1996 amendatory and supplementary act
29 shall not affect the orders, rules, regulations, bulletins, plans of
30 operation, contracts, settlement or consent agreements, or stipulations
31 heretofore made, promulgated by, or approved by the Commissioners
32 of Banking or Insurance, or any department, division, bureau, board
33 or other agency, the functions powers and duties of which have been
34 assigned or transferred to the reconstituted Department of Banking
35 and Insurance by this act, or to any other agency designated, continued
36 or constituted hereunder, but those orders, rules, regulations, bulletins,
37 plans of operation, contracts, settlement or consent agreements, and
38 stipulations shall continue with full force and effect until amended or
39 repealed pursuant to law.

40
41 15. (New section) This 1996 amendatory and supplementary act
42 shall not affect actions or proceedings, civil or criminal, brought by or
43 against the Commissioners of Banking and Insurance, or any
44 department, division, bureau, board, commission, or other agency, the
45 functions, powers and duties of which have been herein assigned or
46 transferred to the reconstituted Department of Banking and Insurance,

1 or to any agency designated, continued, or constituted hereunder, and
2 pending on the effective date of this act.

3

4 16. (New section) a. There shall be established the Department
5 of Banking and Insurance Study Commission whose purpose shall be
6 to examine the effects of the merger of the Department of Banking and
7 the Department of Insurance into the Department of Banking and
8 Insurance.

9 b. The study commission shall consist of the following members:

10 (1) the Commissioner of Banking and Insurance, or the
11 commissioner's designee, who shall serve ex officio;

12 (2) Two members of the Senate appointed by the Senate President
13 and two members of the General Assembly appointed by the Speaker
14 of the General Assembly, with no more than one of either group of
15 two being of the same political party;

16 (3) Five representatives of the financial services industry, one to
17 be appointed by the Senate President, one to be appointed by the
18 Speaker of the General Assembly and three to be appointed by the
19 Governor;

20 (4) Five representatives of insurers doing business in this State,
21 one to be appointed by the Senate President, one to be appointed by
22 the Speaker of the General Assembly, and three to be appointed by the
23 Governor;

24 (5) Three representatives of the real estate industry, one to be
25 appointed by the Senate President, one to be appointed by the Speaker
26 of the General Assembly, and one to be appointed by the Governor;

27 (6) Three public members, one to be appointed by the Senate
28 President, one to be appointed by the Speaker of the General
29 Assembly, and one to be appointed by the Governor.

30 c. The commissioner shall convene the study commission no later
31 than January 2, 2001, and the commission shall report its findings and
32 recommendations to the Governor and the Legislature no later than 12
33 months after January 2, 2001.

34

35 17. Section 1 of P.L.1958, c.66 (C.17:1-8.1) is amended to read
36 as follows:

37 1. The commissioner [shall make and enforce, and may alter,
38 modify, amend, or repeal rules and regulations to effectuate the
39 purposes of this Title and not inconsistent with the provisions
40 thereof] may, in accordance with the "Administrative Procedure Act,"
41 P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate such rules and
42 regulations as are necessary to effectuate the purposes of this 1996
43 amendatory and supplementary act.

44 (cf: P.L.1958, c.66, s.1)

1 18. The following are repealed:
2 R.S.17:1-3;
3 R.S.17:1-4;
4 R.S.17:1-6;
5 R.S.17:1-7;
6 Sections 2 through 4 of P.L.1958, c.66 (C.17:1-8.2 through
7 17:1-8.4);
8 P.L.1958, c.68 (C.17:1-8.5 through 17:1-8.11);
9 R.S.17:1-9;
10 Section 18 of P.L.1981, c.103 (C.17:1-9.1);
11 R.S.17:1-10;
12 Section 5 of P.L.1981, c.74 (C.17:1-12);
13 P.L.1970, c.11 (C.17:1B-1 et seq.);
14 Section 1 of P.L.1970, c.88 (C.17:1B-3a); and
15 P.L.1970, c.12 (C.17:1C-1 et seq.)

16
17 19. (New section) This act shall take effect on July 1, 1996,
18 except that any appointment, any confirmation of any appointment, or
19 any personnel activity consistent with the purposes of this act may be
20 made prior to that date.

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24

25 Merges Departments of Banking and Insurance.