

§§1,4,6,7,9-16-  
C.17:1-13 to  
17:1-24  
§18-Repealer  
§19-Note to §§1-18

P.L. 1996, CHAPTER 45, *approved June 28, 1996*  
Senate No. 1363 (*First Reprint*)

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.17:1-1.1 et  
22 al.), is reconstituted as a principal department in the executive branch  
23 of State Government by this 1996 amendatory and supplementary act.  
24 The department, having been divided into two separate principal  
25 departments, the Department of Banking, pursuant to P.L.1970, c.11  
26 (C.17:1B-1 et seq.), and the Department of Insurance, pursuant to  
27 P.L.1970, c.12 (C.17:1C-1 et seq.), is recombined and designated as  
28 the Department of Banking and Insurance by this 1996 amendatory  
29 and supplementary act. Such department shall be vested with all the  
30 powers and charged with all the duties and subject to all the  
31 obligations and penalties which, on February 10th, one thousand eight  
32 hundred and ninety-one, were vested in, conferred and imposed upon  
33 the Secretary of State, acting as commissioner of insurance, or upon  
34 the board of bank commissioners or any other officer or board charged  
35 with the execution of the laws relative to subjects herein above recited,  
36 [as also building and loan corporations or associations organized  
37 under the laws of other States, transacting or to be admitted to

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SBA committee amendments adopted June 20, 1996.

1 transact business in this State] as well as any additional duties,  
2 powers, and obligations prescribed in this 1996 amendatory and  
3 supplementary act or by any other law.

4 All the powers, functions and duties of the existing Department of  
5 Banking and Department of Insurance and the commissioners thereof  
6 are continued in the Department of Banking and Insurance, and in the  
7 office of the commissioner thereof.

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

9  
10 3. R.S.17:1-2 is amended to read as follows:

11 17:1-2. a. The head of the reconstituted department, to be  
12 denominated the Commissioner of Banking and Insurance and  
13 hereinafter in [this] Title 17 of the Revised Statutes and Title 17B of  
14 the New Jersey Statutes, designated the "commissioner," shall be  
15 appointed by the Governor, with the advice and consent of the Senate,  
16 and shall serve at the pleasure of the Governor during the Governor's  
17 term of office and until the appointment and qualification of the  
18 commissioner's successor. The person in office as the Commissioner  
19 of Insurance on June 30, 1996, shall at the pleasure of the Governor  
20 hold the office of Commissioner of Banking and Insurance  
21 reestablished by this 1996 amendatory and supplementary act for the  
22 unexpired term for which the commissioner was appointed, and until  
23 a successor is appointed and qualified. No person shall be appointed  
24 commissioner who is in any way connected with the management or  
25 control of any corporation, firm, association, institution, or licensee  
26 affected by [this chapter] Title 17 of the Revised Statutes or Title 17B  
27 of the New Jersey Statutes, and [he] the commissioner shall  
28 immediately be dismissed from office if at any time [he] the  
29 commissioner becomes so interested. [Before entering upon the  
30 discharge of his duties the commissioner shall give bond, conditioned  
31 for the faithful discharge of his duties, in the sum of twenty-five  
32 thousand dollars (\$25,000.00) with two good and sufficient sureties,  
33 freeholders of this State to be approved by the Governor, and take an  
34 oath of office before one of the justices of the Supreme Court in form  
35 similar to that required of the Secretary of State. The bond and oath  
36 of office shall be filed in the Department of State.

37 The commissioner shall have no dealings or transactions in any  
38 capacity with any bank or trust company under the jurisdiction of the  
39 department save in the strict performance of his duties, except the  
40 institutions with which he was dealing prior to his appointment, under  
41 penalty of immediate dismissal from his office of employment.

42 No deputy commissioner or examiner in the department shall have  
43 any dealings or transactions in any capacity with any bank or trust  
44 company under the jurisdiction of the department save in the strict  
45 performance of his duties, under penalty of immediate dismissal from  
46 his office or employment.]

1 The commissioner shall receive such salary as shall be provided by  
2 law.

3 [The commissioner shall coordinate the activities of the  
4 department.]

5 The commissioner shall devote full time to the performance of the  
6 duties of commissioner.

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

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

28 Any violation of this section shall be cause for dismissal of the  
29 violation by the appointing authority.

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

31

32 4. (New section) a. The commissioner may appoint such deputy  
33 commissioners and assistant commissioners as the commissioner shall  
34 deem necessary, to serve at the pleasure of the commissioner, subject  
35 to the provisions of Title 11A of the New Jersey Statutes. Each  
36 deputy or assistant commissioner shall exercise those powers and  
37 perform those duties of the commissioner as the commissioner may  
38 prescribe or delegate under the commissioner's direction and  
39 supervision. <sup>1</sup>[The] Subject to the provisions of paragraph (2) of  
40 subsection d. and paragraph (2) of subsection e. of this section, the<sup>1</sup>  
41 commissioner shall designate one or more department officials to  
42 exercise the powers and perform the duties of the commissioner during  
43 the commissioner's absence, disability, or when otherwise specified by  
44 the commissioner.

45 b. Subject to applicable laws <sup>1</sup>and the provisions of subsections d.  
46 and e. of this section<sup>1</sup>, the commissioner shall have the authority to

1 establish, engage, organize, and maintain in the department  
2 administrative personnel and structure as the commissioner deems  
3 necessary to perform all personnel, planning and budget and finance  
4 responsibilities, examinations, investigations, regulatory  
5 responsibilities or other duties or services as may be required for the  
6 efficient and effective operation of the department.

7 <sup>1</sup>c. There is established within the Department of Banking and  
8 Insurance, a Division of Banking and a Division of Insurance. The  
9 Department of Banking and Insurance shall be organized so that,  
10 subject to the supervision of the commissioner, the Director of the  
11 Division of Banking shall be in charge of the functions and duties that  
12 relate to banking and supervise and regulate those entities previously  
13 supervised and regulated by the Department of Banking, and the  
14 Director of the Division of Insurance shall be in charge of the  
15 functions and duties that relate to insurance and supervise and regulate  
16 those entities previously supervised and regulated by the Department  
17 of Insurance.

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

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

40 (2) in the absence of the commissioner, to be acting commissioner  
41 for all matters relating to banking;

42 (3) to review all banking institutions and other lenders and  
43 depository institutions, other than insurance entities, to ensure the  
44 safety and soundness of those institutions, and to make  
45 recommendations to the commissioner for appropriate action to ensure  
46 the safety and soundness of the institutions;

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

7     (5) to exercise those powers and perform those duties as the  
8 commissioner may prescribe or delegate under the commissioner's  
9 direction and supervision.

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

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

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

31     (3) to exercise those powers and perform those duties as the  
32 commissioner may prescribe or delegate under the commissioner's  
33 direction and supervision.<sup>1</sup>

34  
35     5. Section 3 of P.L.1948, c.88 (17:1-3.1) is amended to read as  
36 follows:

37     3. There shall be within the Department of Banking and Insurance  
38 a division which shall be known as the division of the New Jersey real  
39 estate commission. The terms of office of the members of the  
40 commission as of the effective date of this 1996 amendatory and  
41 supplementary act shall not be affected by this act. The commission  
42 shall continue to be constituted and the members thereof shall continue  
43 to be appointed as provided by law.

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

- 1       6. (New section) The commissioner, as administrator and chief  
2 executive office of the department, shall:
- 3       a. Administer the work of the department;
- 4       b. Appoint and remove officers and other personnel employed  
5 within the department, subject to the provisions of Title 11A of the  
6 New Jersey Statutes, and other applicable statutes, except as otherwise  
7 specifically provided;
- 8       c. Perform, exercise and discharge the functions, powers and duties  
9 of the department through those divisions established by law or as the  
10 commissioner deems necessary;
- 11       d. Organize the work of the department pursuant to the structure  
12 or organizational units the commissioner determines to be necessary  
13 for efficient and effective operation, and which are not inconsistent  
14 with the provisions of this 1996 amendatory and supplementary act;
- 15       e. Formulate, adopt, issue and promulgate, pursuant to the  
16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
17 seq.), in the name of the department, rules and regulations authorized  
18 by law for the efficient conduct of the work and general administration  
19 of the department, and the appropriate regulation of the institutions,  
20 companies, agencies, boards, commissions, and other entities within  
21 its jurisdiction, including licensees, officers and employees as  
22 authorized by law;
- 23       f. Determine all matters of policy within the commissioner's  
24 jurisdiction;
- 25       g. Institute or cause to be instituted the legal proceedings of  
26 processes necessary to enforce properly and give effect to any of the  
27 commissioner's powers or duties;
- 28       h. Make a report each year to the Governor and to the Legislature  
29 of the department's operations for the proceeding fiscal year, and  
30 render such other reports as the Governor shall from time to time  
31 request, or as may be required by law;
- 32       i. Appoint advisory committees which may be desirable to advise  
33 and assist the department or a division in carrying out its functions and  
34 duties;
- 35       j. Perform such other functions as may be prescribed by law in this  
36 act or by any other law; and
- 37       k. Maintain suitable headquarters for the department and such  
38 other quarters as the commissioner shall deem necessary to the proper  
39 functioning of the department.
- 40
- 41       7. (New section) For the purpose of effectuating the powers and  
42 duties of the department and the commissioner, the commissioner may  
43 cause to be examined under oath any and all persons whatsoever and  
44 compel by subpoena upon appropriate notice the attendance of  
45 witnesses and the production of such books, records, accounts, papers,  
46 and other documents as are appropriate. If any person shall refuse to

1 obey a subpoena, or to produce evidence as required thereby, the  
2 commissioner may apply ex parte to any court having jurisdiction over  
3 that person for an order compelling the appearance of the witness to  
4 give testimony or to produce evidence as required thereby, or both.  
5 Any person failing to obey the court order may be punished by the  
6 court for contempt.

7  
8 8. R.S.17:1-8 is amended to read as follows:

9 17:1-8. The commissioner shall charge for a license and for all  
10 services performed by [him] the department the fees provided in [this]  
11 Title 17 of the Revised Statutes or Title 17B of the New Jersey  
12 Statutes, or in lieu thereof or where not so provided, such fees as [he]  
13 the commissioner shall prescribe by rule or regulation, including but  
14 not limited to application fees, license fees, assessments, and charges  
15 for investigations and examinations. [He]The commissioner shall  
16 make [quarterly] returns to the Director of the Division of Budget and  
17 Accounting of all fees and moneys collected by [him] the department,  
18 and pay the sum so collected into the State Treasury.

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

20  
21 9. (New section) All appropriations and other moneys available  
22 and to become available to any department, division, bureau, board,  
23 commission, or other entity or agency, the functions, powers and  
24 duties of which have been assigned or transferred to the Department  
25 of Banking or to the Department of Insurance are hereby transferred  
26 to the Department of Banking and Insurance re-established by this  
27 1996 amendatory and supplementary act, and shall be available for the  
28 objects and purposes for which appropriated, subject to any terms,  
29 restrictions, limitations, or other requirements imposed by State or  
30 federal law.

31  
32 10. (New section) Employees of any department, division, bureau,  
33 board, commission or other agency or entity, the functions, powers  
34 and duties of which have been assigned or transferred to the  
35 Department of Banking or to the Department of Insurance or to any  
36 agency continued or constituted therein, shall be assigned or  
37 transferred pursuant to Title 11A of the New Jersey Statutes to the  
38 reconstituted Department of Banking and Insurance as the  
39 commissioner may determine are needed for the proper performance  
40 of the duties of the department.

41  
42 11. (New section) Nothing in this 1996 amendatory and  
43 supplementary act shall be construed to deprive any person of any  
44 tenure rights or of any right or protection provided him or her by Title  
45 11A of the New Jersey Statutes, or under any pension law or  
46 retirement system.

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

11

12       13. (New section) With respect to the functions, powers and  
13 duties continued in the Department of Banking and Insurance by this  
14 1996 amendatory and supplementary act, whenever in any law, rule,  
15 regulation, order, agreement, stipulation, judicial or administrative  
16 proceeding or otherwise, reference is made to the Department of  
17 Banking or to the Department of Insurance, or to the Commissioner  
18 of Banking or to the Commissioner of Insurance, the same shall mean  
19 and refer to the Department of Banking and Insurance, and the  
20 Commissioner of Banking and Insurance, respectively.

21

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

34

35       15. (New section) This 1996 amendatory and supplementary act  
36 shall not affect actions or proceedings, civil or criminal, brought by or  
37 against the Commissioners of Banking and Insurance, or any  
38 department, division, bureau, board, commission, or other agency, the  
39 functions, powers and duties of which have been herein assigned or  
40 transferred to the reconstituted Department of Banking and Insurance,  
41 or to any agency designated, continued, or constituted hereunder, and  
42 pending on the effective date of this act.

43

44       <sup>1</sup>16. (New section) a. There shall be established the Department  
45 of Banking and Insurance Study Commission whose purpose shall be  
46 to examine the effects of the merger of the Department of Banking and

1 the Department of Insurance into the Department of Banking and  
 2 Insurance.

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

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

6 (2) Two members of the Senate appointed by the Senate President  
 7 and two members of the General Assembly appointed by the Speaker  
 8 of the General Assembly, with no more than one of either group of  
 9 two being of the same political party;

10 (3) Five representatives of the financial services industry, one to be  
 11 appointed by the Senate President, one to be appointed by the Speaker  
 12 of the General Assembly and three to be appointed by the Governor;

13 (4) Five representatives of insurers doing business in this State, one  
 14 to be appointed by the Senate President, one to be appointed by the  
 15 Speaker of the General Assembly, and three to be appointed by the  
 16 Governor;

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

20 (6) Three public members, one to be appointed by the Senate  
 21 President, one to be appointed by the Speaker of the General  
 22 Assembly, and one to be appointed by the Governor.

23 c. The commissioner shall convene the study commission no later  
 24 than January 2, 2001, and the commission shall report its findings and  
 25 recommendations to the Governor and the Legislature no later than 12  
 26 months after January 2, 2001.<sup>1</sup>

27

28 <sup>1</sup>[16.] 17.<sup>1</sup> Section 1 of P.L.1958, c.66 (C.17:1-8.1) is amended to  
 29 read as follows:

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

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

38

39 <sup>1</sup>[17.] 18.<sup>1</sup> The following are repealed:

40 R.S.17:1-3;

41 R.S.17:1-4;

42 R.S.17:1-6;

43 R.S.17:1-7;

44 Sections 2 through 4 of P.L.1958, c.66 (C.17:1-8.2 through  
 45 17:1-8.4);

46 P.L.1958, c.68 (C.17:1-8.5 through 17:1-8.11);

1 R.S.17:1-9;  
2 Section 18 of P.L.1981, c.103 (C.17:1-9.1);  
3 R.S.17:1-10;  
4 Section 5 of P.L.1981, c.74 (C.17:1-12);  
5 P.L.1970, c.11 (C.17:1B-1 et seq.);  
6 Section 1 of P.L.1970, c.88 (C.17:1B-3a); and  
7 P.L.1970, c.12 (C.17:1C-1 et seq.)

8  
9 <sup>1</sup>[18.] 19.<sup>1</sup> (New section) This act shall take effect on July 1,  
10 1996, except that any appointment, any confirmation of any  
11 appointment, or any personnel activity consistent with the purposes of  
12 this act may be made prior to that date.

13

14

15

16

17 Merges Departments of Banking and Insurance.