

## CHAPTER 45

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

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

C.17:1-13 Short title.

1. This act shall be known and may be cited as the "Department of Banking and Insurance Act of 1996."

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

Department of Banking and Insurance reconstituted.

17:1-1. The Department of Banking and Insurance, hereinafter in Title 17 of the Revised Statutes and Title 17B of the New Jersey Statutes designated as the "department," created and established by an act entitled "An act to establish a Department of Banking and Insurance," approved February 10th, one thousand eight hundred and ninety-one (L.1891, c.6, p.17), and charged with the execution of all laws relative to insurance, banking, savings, trust, guarantee, safe deposit, indemnity, mortgage, investment and loan corporations continued and constituted as a principal department in the executive branch of the State Government by the "Department of Banking and Insurance Act of 1948," P.L.1948, c.88 (C.17:1-1.1 et al.), is reconstituted as a principal department in the executive branch of State Government by this 1996 amendatory and supplementary act. The department, having been divided into two separate principal departments, the Department of Banking, pursuant to P.L.1970, c.11 (C.17:1B-1 et seq.), and the Department of Insurance, pursuant to P.L.1970, c.12 (C.17:1C-1 et seq.), is recombined and designated as the Department of Banking and Insurance by this 1996 amendatory and supplementary act. Such department shall be vested with all the powers and charged with all the duties and subject to all the obligations and penalties which, on February 10th, one thousand eight hundred and ninety-one, were vested in, conferred and imposed upon the Secretary of State, acting as commissioner of insurance, or upon the board of bank commissioners or any other officer or board charged with the execution of the laws relative to subjects hereinabove recited, as well as any additional duties, powers, and obligations prescribed in this 1996 amendatory and supplementary act or by any other law.

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

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

Commissioner of Banking and Insurance appointment, salary; interests prohibited to commissioner, officers, employees.

17:1-2. a. The head of the reconstituted department, to be denominated the Commissioner of Banking and Insurance and hereinafter in Title 17 of the Revised Statutes and Title 17B of the New Jersey Statutes, designated the "commissioner," shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor during the Governor's term of office and until the appointment and qualification of the commissioner's successor. The person in office as the Commissioner of Insurance on June 30, 1996, shall at the pleasure of the Governor hold the office of Commissioner of Banking and Insurance reestablished by this 1996 amendatory and supplementary act for the unexpired term for which the commissioner was appointed, and until a successor is appointed and qualified. No person shall be appointed commissioner who is in any way connected with the management or control of any corporation, firm, association, institution, or licensee affected by Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes, and the commissioner shall immediately be dismissed from office if at any time the commissioner becomes so interested.

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

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

b. Neither the commissioner nor any officer or employee of the department shall have any ownership of, interest in, or any dealings or transactions in any capacity with any financial institution, insurance company or other entity chartered, licensed or regulated by the department,

except in the strict performance of the commissioner's, officer's or employee's duties. This prohibition shall not preclude the commissioner, or officers or employees of the department from continuing routine banking services with financial institutions, including but not limited to, mortgages, checking and savings accounts, and personal loans, entered into prior to their employment, or from establishing banking accounts and from obtaining loans and other services normally obtained by members of the general public, or from obtaining insurance or making claims involving their person, property or affairs, under the same terms and conditions as are available to members of the general public. This prohibition shall not apply to investments in mutual funds, deferred compensation plans, blind trusts, or similar investments, in which the commissioner, officer or employee does not make or influence the selection of individual investments.

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

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

C.17:1-14 Appointments of deputy, assistant commissioners, organization, divisions.

4. (New section) a. The commissioner may appoint such deputy commissioners and assistant commissioners as the commissioner shall deem necessary, to serve at the pleasure of the commissioner, subject to the provisions of Title 11A of the New Jersey Statutes. Each deputy or assistant commissioner shall exercise those powers and perform those duties of the commissioner as the commissioner may prescribe or delegate under the commissioner's direction and supervision. Subject to the provisions of paragraph (2) of subsection d. and paragraph (2) of subsection e. of this section, the commissioner shall designate one or more department officials to exercise the powers and perform the duties of the commissioner during the commissioner's absence, disability, or when otherwise specified by the commissioner.

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

c. There is established within the Department of Banking and Insurance, a Division of Banking and a Division of Insurance. The Department of Banking and Insurance shall be organized so that, subject to the supervision of the commissioner, the Director of the Division of Banking shall be in charge of the functions and duties that relate to banking and supervise and regulate those entities previously supervised and regulated by the Department of Banking, and the Director of the Division of Insurance shall be in charge of the functions and duties that relate to insurance and supervise and regulate those entities previously supervised and regulated by the Department of Insurance.

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

- (1) to organize the work of the Division of Banking into the offices, bureaus and other organizational units as the director may determine, subject to the approval of the commissioner;
- (2) in the absence of the commissioner, to be acting commissioner for all matters relating to

banking;

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

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

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

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

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

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

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

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

C.17:1-3.1 New Jersey Real Estate Commission.

3. There shall be within the Department of Banking and Insurance a division which shall be known as the division of the New Jersey Real Estate Commission. The terms of office of the members of the commission as of the effective date of this 1996 amendatory and supplementary act shall not be affected by this act. The commission shall continue to be constituted and the members thereof shall continue to be appointed as provided by law.

C.17:1-15 Duties, authority of commissioner.

6. The commissioner, as administrator and chief executive office of the department, shall:

a. Administer the work of the department;

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

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

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

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

- f. Determine all matters of policy within the commissioner's jurisdiction;
- g. Institute or cause to be instituted the legal proceedings or processes necessary to enforce properly and give effect to any of the commissioner's powers or duties;
- h. Make a report each year to the Governor and to the Legislature of the department's operations for the preceding fiscal year, and render such other reports as the Governor shall from time to time request, or as may be required by law;
- i. Appoint advisory committees which may be desirable to advise and assist the department or a division in carrying out its functions and duties;
- j. Perform such other functions as may be prescribed by law in this act or by any other law; and
- k. Maintain suitable headquarters for the department and such other quarters as the commissioner shall deem necessary to the proper functioning of the department.

C.17:1-16 Examination of persons, subpoena of witnesses, documents.

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

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

Fees; disposition.

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

C.17:1-17 Transfer of appropriations, moneys.

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

C.17:1-18 Assignment, transfer of employees.

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

C.17:1-19 Tenure, rights preserved.

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

C.17:1-20 Transferral of property.

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

C.17:1-21 References to department, commissioner.

13. With respect to the functions, powers and duties continued in the Department of Banking and Insurance by this 1996 amendatory and supplementary act, whenever in any law, rule, regulation, order, agreement, stipulation, judicial or administrative proceeding or otherwise, reference is made to the Department of Banking or to the Department of Insurance, or to the Commissioner of Banking or to the Commissioner of Insurance, the same shall mean and refer to the Department of Banking and Insurance, and the Commissioner of Banking and Insurance, respectively.

C.17:1-22 Existing orders, rules, regulations not affected.

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

C.17:1-23 Actions, proceedings not affected.

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

C.17:1-24 Department of Banking and Insurance Study Commission.

16. a. There shall be established the Department of Banking and Insurance Study Commission whose purpose shall be to examine the effects of the merger of the Department of Banking and the Department of Insurance into the Department of Banking and Insurance.

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

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

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

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

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

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

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

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

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

C.17:1-8.1 Rules, regulations.

1. The commissioner may, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate such rules and regulations as are necessary to effectuate the purposes of this 1996 amendatory and supplementary act.

Repealer.

18. The following are repealed:

R.S.17:1-3;

R.S.17:1-4;

R.S.17:1-6;

R.S.17:1-7;

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

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

R.S.17:1-9;

Section 18 of P.L.1981, c.103 (C.17:1-9.1);

R.S.17:1-10;

Section 5 of P.L.1981, c.74 (C.17:1-12);

P.L.1970, c.11 (C.17:1B-1 et seq.);

Section 1 of P.L.1970, c.88 (C.17:1B-3a); and

P.L.1970, c.12 (C.17:1C-1 et seq.).

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

Approved June 28, 1996.