

SENATE, No. 1363

STATE OF NEW JERSEY

INTRODUCED JUNE 13, 1996

By Senator INVERSO

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

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.

1 with the execution of the laws relative to subjects herein above recited,
2 [as also building and loan corporations or associations organized
3 under the laws of other States, transacting or to be admitted to
4 transact business in this State] as well as any additional duties,
5 powers, and obligations prescribed in this 1996 amendatory and
6 supplementary act or by any other law.

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

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

12

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

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

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

45 No deputy commissioner or examiner in the department shall have
46 any dealings or transactions in any capacity with any bank or trust

1 company under the jurisdiction of the department save in the strict
2 performance of his duties, under penalty of immediate dismissal from
3 his office or employment.]

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

6 [The commissioner shall coordinate the activities of the
7 department.]

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

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

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

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

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

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

46 b. Subject to applicable laws, the commissioner shall have the

1 authority to establish, engage, organize, and maintain in the
2 department administrative personnel and structure as the commissioner
3 deems necessary to perform all personnel, planning and budget and
4 finance 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
8 5. Section 3 of P.L.1948, c.88 (17:1-3.1) is amended to read as
9 follows:

10 3. There shall be within the Department of Banking and Insurance
11 a division which shall be known as the division of the New Jersey real
12 estate commission. The terms of office of the members of the
13 commission as of the effective date of this 1996 amendatory and
14 supplementary act shall not be affected by this act. The commission
15 shall continue to be constituted and the members thereof shall continue
16 to be appointed as provided by law.

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

18
19 6. (New section) The commissioner, as administrator and chief
20 executive office of the department, shall:

21 a. Administer the work of the department;

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

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

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

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

41 f. Determine all matters of policy within the commissioner's
42 jurisdiction;

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

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

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

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

10 k. Maintain suitable headquarters for the department and such
11 other quarters as the commissioner shall deem necessary to the proper
12 functioning of the department.

13
14 7. (New section) For the purpose of effectuating the powers and
15 duties of the department and the commissioner, the commissioner may
16 cause to be examined under oath any and all persons whatsoever and
17 compel by subpoena upon appropriate notice the attendance of
18 witnesses and the production of such books, records, accounts, papers,
19 and other documents as are appropriate. If any person shall refuse to
20 obey a subpoena, or to produce evidence as required thereby, the
21 commissioner may apply ex parte to any court having jurisdiction over
22 that person for an order compelling the appearance of the witness to
23 give testimony or to produce evidence as required thereby, or both.
24 Any person failing to obey the court order may be punished by the
25 court for contempt.

26
27 8. R.S.17:1-8 is amended to read as follows:

28 17:1-8. The commissioner shall charge for a license and for all
29 services performed by [him] the department the fees provided in [this]
30 Title 17 of the Revised Statutes or Title 17B of the New Jersey
31 Statutes, or in lieu thereof or where not so provided, such fees as [he]
32 the commissioner shall prescribe by rule or regulation, including but
33 not limited to application fees, license fees, assessments, and charges
34 for investigations and examinations. [He]The commissioner shall
35 make [quarterly] returns to the Director of the Division of Budget and
36 Accounting of all fees and moneys collected by [him] the department,
37 and pay the sum so collected into the State Treasury.

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

39
40 9. (New section) All appropriations and other moneys available
41 and to become available to any department, division, bureau, board,
42 commission, or other entity or agency, the functions, powers and
43 duties of which have been assigned or transferred to the Department
44 of Banking or to the Department of Insurance are hereby transferred
45 to the Department of Banking and Insurance re-established by this
46 1996 amendatory and supplementary act, and shall be available for the

1 objects and purposes for which appropriated, subject to any terms,
2 restrictions, limitations, or other requirements imposed by State or
3 federal law.

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

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15 11. (New section) Nothing in this 1996 amendatory and
16 supplementary act shall be construed to deprive any person of any
17 tenure rights or of any right or protection provided him or her by Title
18 11A of the New Jersey Statutes, or under any pension law or
19 retirement system.

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

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32 13. (New section) With respect to the functions, powers and
33 duties continued in the Department of Banking and Insurance by this
34 1996 amendatory and supplementary act, whenever in any law, rule,
35 regulation, order, agreement, stipulation, judicial or administrative
36 proceeding or otherwise, reference is made to the Department of
37 Banking or to the Department of Insurance, or to the Commissioner
38 of Banking or to the Commissioner of Insurance, the same shall mean
39 and refer to the Department of Banking and Insurance, and the
40 Commissioner of Banking and Insurance, respectively.

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42 14. (New section) This 1996 amendatory and supplementary act
43 shall not affect the orders, rules, regulations, bulletins, plans of
44 operation, contracts, settlement or consent agreements, or stipulations
45 heretofore made, promulgated by, or approved by the Commissioners
46 of Banking or Insurance, or any department, division, bureau, board

1 or other agency, the functions powers and duties of which have been
2 assigned or transferred to the reconstituted Department of Banking
3 and Insurance by this act, or to any other agency designated, continued
4 or constituted hereunder, but those orders, rules, regulations, bulletins,
5 plans of operation, contracts, settlement or consent agreements, and
6 stipulations shall continue with full force and effect until amended or
7 repealed pursuant to law.

8
9 15. (New section) This 1996 amendatory and supplementary act
10 shall not affect actions or proceedings, civil or criminal, brought by or
11 against the Commissioners of Banking and Insurance, or any
12 department, division, bureau, board, commission, or other agency, the
13 functions, powers and duties of which have been herein assigned or
14 transferred to the reconstituted Department of Banking and Insurance,
15 or to any agency designated, continued, or constituted hereunder, and
16 pending on the effective date of this act.

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

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

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

28
29 17. The following are repealed:

30 R.S. 17:1-3;

31 R.S. 17:1-4;

32 R.S. 17:1-6;

33 R.S. 17:1-7;

34 Sections 2 through 4 of P.L.1958, c.66 (C.17:1-8.2 through
35 17:1-8.4);

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

37 R.S.17:1-9;

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

39 R.S.17:1-10;

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

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

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

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

44
45 18. (New section) This act shall take effect on July 1, 1996,
46 except that any appointment, any confirmation of any appointment, or

1 any personnel activity consistent with the purposes of this act may be
2 made prior to that date.

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STATEMENT

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7 This bill merges, or consolidates, the Department of Banking and
8 the Department of Insurance into one Department of Banking and
9 Insurance. In so doing, it recognizes the changes in the financial
10 marketplace since the establishment of separate departments in 1970.
11 Since 1970, and particularly since 1980, the product lines of banks and
12 insurance companies have become less clearly defined. This "blurring"
13 of product lines regularly confronts consumers who are offered
14 insurance-like products from banking institutions, financial services
15 through insurance companies and a panoply of financial services and
16 insurance products through banking and insurance holding companies.
17 The new Department of Banking and Insurance will provide a single
18 regulatory entity for these businesses, and the consumers of their
19 services as well, and will enhance the State's ability to provide
20 oversight and advocacy for the banking, insurance and real estate
21 industries.

22 Over one hundred years ago, the first Department of Banking and
23 Insurance was established as a principal department in the executive
24 branch of State Government. The single department was continued
25 and constituted as a single principal department in 1948 after the new
26 State Constitution limited the number of principal departments to 20.
27 The department was divided into the separate Departments of Banking
28 and Insurance in 1970. This bill recombines the two departments into
29 one to better serve the industries it will regulate and the consumers of
30 their products and to effect administrative efficiencies as well.

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Merges Departments of Banking and Insurance.