

BANKING  
DEPARTMENT OF BANKING AND INSURANCE  
DIVISION OF BANKING

Federal Matters

Proposed Readoption: N.J.A.C. 3:9

Proposed Repeals: N.J.A.C. 3:9-4 and 5

Authorized By: Steven M. Goldman, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8.1, 17:1-15(e) and 17:9A-467

Calendar Reference: See Summary below for explanation of exception to calendar requirement

Proposal Number: PRN 2006-262.

Submit comments by October 6, 2006 to:

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The agency proposal follows:

**Summary**

The Department of Banking and Insurance (Department) proposes to readopt certain subchapters of N.J.A.C. 3:9 which are scheduled to expire on December 28, 2006 pursuant to N.J.S.A. 52:14B-5.1c. N.J.A.C. 3:9-1.1 provides banks and savings banks that are approved by the Federal Housing Administration with authority to make loans and advances of credit and purchase obligations which are eligible for insurance by the Federal Housing Administration. N.J.A.C. 3:9-2.1 sets forth the authority of banks and savings banks to utilize facilities of the

Federal National Mortgage Association, a corporate instrumentality of the United States, and to make payments to it of nonrefundable capital contributions subject to the terms and conditions prescribed by such corporation in connection with mortgage loans sold to it by such banks. N.J.A.C. 3:9-3.1 sets forth the authority of savings banks to invest in mortgage loans fully insured or guaranteed by the United States acting through the Farmers Home Administration of the United States Department of Agriculture. N.J.A.C. 3:9-4.1 which provided authorization for savings banks to invest in loans which were sold by the Administrator for Veteran's Affairs under Chapter 37, Title 38 of the U.S.C., and which are fully guaranteed by the Administrator is proposed to be repealed based on the repeal of Chapter 37, Title 38 of the U.S.C. N.J.A.C. 3:9-5, Exclusion of F.H.A. and V.A. Loans, by Banks, from Legal Limit of Investment in Mortgages, is proposed to be repealed based on the repeal of N.J.S.A. 17:9A-65. As Subchapter 5 was promulgated to implement statutes which have now been repealed, it is appropriate to repeal this subchapter at this time.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a).

### **Social Impact**

The Department anticipates that the rules proposed for readoption and repeal will continue to afford banks and savings banks appropriate authority to make loans, advances of credit, and to sell, buy and invest in loans which are Federally insured and/or guaranteed and/or made through the use of Federal facilities. Providing such authority will foster the availability of capital for mortgage lending purposes thereby positively affecting the housing market in New Jersey.

### **Economic Impact**

The Department anticipates a positive economic impact on depository institutions as a result of the rules proposed for reoption and repeal. Banks and savings banks will continue to be authorized to make loans, advances of credit, and to sell, buy and invest in loans, through the use of Federal facilities and/or which are Federally insured and/or guaranteed. This allows banks and savings banks a wider choice of investments. A failure to readopt the rules would negatively affect such institutions and the availability in New Jersey of the various types of mortgage loans referenced in the rules. A lack of availability of such loans would have an adverse economic impact on prospective buyers and sellers of New Jersey real estate, as potential sources for financing such purchases would be limited.

### **Federal Standards Statement**

The rules proposed for reoption and repeal do not contain standards or requirements that exceed standards or requirements imposed by Federal law. The Federal standards are the National Housing Act, P.L. 73-479, as amended; the Federal National Mortgage Association Charter Act, P.L. 83-560, as amended; and the Farmer's Home Administration Act of 1946, P.L. 79-731, as amended.

### **Jobs Impact**

The Department does not anticipate that any jobs will be lost or generated as a result of the rules proposed for reoption and the proposed repeals.

### **Agriculture Industry Impact**

The Department does not expect that any agriculture industry impact will result from the rules proposed for reoption and the proposed repeals.

### **Regulatory Flexibility Statement**

The rules proposed for reoption grant investment powers, but do not dictate specifics as to how the powers are to be used. Thus, regulatory flexibility analysis is not required because the rules proposed for reoption do not impose any reporting, recordkeeping, or other compliance requirements on small business as that term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

### **Smart Growth Impact**

The rules proposed for reoption and repeal should have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

**Full text** of the rules proposed for reoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:9

**Full text** of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 3:9-4 and 5.