

BANKING
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF BANKING

Retail Installment Sales Act Rules

Proposed Readoption with Amendments: N.J.A.C. 3:20

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 2006-263.

Submit comments by October 6, 2006 to:

Robert J. Melillo, Chief of Legislative and Regulatory Affairs
Office of Legislative and Regulatory Affairs
New Jersey Department of Banking and Insurance
20 West Street
P.O. Box 325
Trenton, NJ 08625-0325
Fax: (609) 292-0896
E-mail: legsregs@dobi.state.nj.us

The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes to readopt with an amendment N.J.A.C. 3:20, which is scheduled to expire on December 28, 2006, pursuant to N.J.S.A. 52:14B-5.1c. N.J.A.C. 3:20-1.1 sets forth sales and use tax disclosure requirements applicable to retail installment sellers. N.J.A.C. 3:20-1.2 is amended to define "Commissioner" to mean the Commissioner of Banking and Insurance.

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 proposed amendment to accurately reflect that “Commissioner” refers to the Commissioner of Banking and Insurance will eliminate any confusion caused by the obsolete reference to the “Department of Insurance” in the current rule. The rules proposed for re-adoption will continue to have a positive impact on retail installment sellers and their customers by requiring adequate and clear disclosure of how sales tax is to be calculated when the down payment or any part thereof is given as a credit by the seller in a retail installment sale transaction.

Economic Impact

The Department does not anticipate any economic impact as a result of updating of the definition of “Commissioner” in N.J.S.A. 3:20. The rules proposed for re-adoption of N.J.A.C. 3:20-1.1 will continue to have a positive economic impact on retail installment sellers and buyers by facilitating the correct calculation of sales tax in transactions subject to the rules.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for re-adoption with amendments are not subject to any Federal requirements or standards.

Jobs Impact

The Department does not anticipate that any jobs will be lost or generated from the rules proposed for re-adoption with amendments.

Agriculture Industry Impact

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

Regulatory Flexibility Analysis

The rules proposed for reoption with amendments impose no recordkeeping or reporting requirements and impose de minimis compliance costs on retail installment sellers. Compliance costs will consist of retail installment sellers properly calculating sales and use tax in the sale documents when there is a trade-in. There are no initial capital expenditures needed for making the calculation.

The Department does not believe that any additional professional services will be needed by retail installment sellers to comply with the rules proposed for reoption. No distinction is made in compliance requirements for small businesses and no distinctions are made based on the size of the retail installment seller, as the need for accurate disclosure and calculation of the sales tax where a credit is given by the seller for all or a part of the down payment exists regardless of the size of the retail installment seller's business.

Smart Growth Impact

The rules proposed for reoption with amendments 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 readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:20

Full text of this proposed amendment follows (additions indicated in boldface **thus**).

3:20-1.2 Commissioner of Department of **Banking and** Insurance

The word “Commissioner” as used in Section 34 of Chapter 40, P.L. 1960, the Retail Installment Sales Act of 1960, means the Commissioner of the Department of **Banking and** Insurance.