

State of New Jersey

DEPARTMENT OF BANKING AND INSURANCE

OFFICE OF THE COMMISSIONER

PO Box 325

TRENTON, NJ 08625-0325

TEL (609) 292-7272

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

RICHARD J. BADOLATO
Commissioner

BULLETIN NO. 16-08

**TO: ALL NEW JERSEY STATE CHARTERED BANKS, SAVINGS BANKS,
SAVINGS AND LOAN ASSOCIATIONS AND CREDIT UNIONS**

FROM: RICHARD J. BADOLATO, COMMISSIONER

RE: PRE- AND POST-DISASTER REGULATORY GUIDANCE

The purpose of this Bulletin is to provide guidance to all New Jersey state chartered banks, savings banks, savings and loan associations and credit unions (“institutions”) regarding pre- and post-disaster regulatory activity, including, but not limited to, the issuance of bulletins, orders, or both, by the Commissioner pursuant to the Banking Act of 1948, N.J.S.A. 17:9A-23.50 et seq., following a declaration of a State of Emergency by the Governor, and the Commissioner’s general authority pursuant to N.J.S.A. 17:1-15(g). The regulatory activity described herein may be implemented as necessary depending upon the particular circumstances, and would be tailored, as appropriate, based upon the nature of the state of emergency and consumer impact. Similar regulatory action was taken pre- and post- Storms Sandy and Irene. Examples of the content of such regulatory activity follow.

The Department requests each institution to review and be familiar with the content of these regulatory measures. This will enable each institution to be as responsive as possible and will aid in the recovery efforts after a state of emergency.

I. Pre-disaster planning

A. Disaster Preparation Plan

According to established practice, all institutions are required to prepare and maintain a disaster preparation plan to address all reasonably foreseeable risks to continuity of business in the event of a catastrophic event. The Department notes the particular importance to New Jersey citizens of maintaining financial services in these circumstances.

Therefore, the Department recommends that institutions review their disaster preparation plans. The institution's disaster preparation plan should include any special provisions for check cashing during a disaster, either by depositors or non-depositors, including procedures for the resolution of issues involving identification and coordination with check issuers. The institution's disaster preparation plan should also include any special provisions for the handling of wire transfers, opening of accounts, meeting credit needs and/or waiving certain fees following a catastrophic event.

The Department also reminds institutions that they should be prepared to execute directives following a disaster or catastrophic event declaration by the Department, which declaration may be subsequent to an emergency declaration by the Governor. Compliance with such directives will assist in maintaining the availability of banking services to our citizens in the event of a catastrophic event and will mitigate its impact.

New Jersey statute (N.J.S.A. 17:9A-23.50 et seq.) authorize a bank's officers to use their judgment to make the decision to close one or more offices, whether or not the Commissioner has proclaimed an emergency. N.J.S.A. 17:9A-23.54 addresses immunity from liability for losses resulting from bank closings attributable to emergencies as defined in N.J.S.A. 17:9A-23.50).

Comparable provisions are contained in N.J.S.A. 17:12B-46.1, et seq. with respect to actions by the officers of savings and loan associations during an emergency.

Credit unions should take reasonable steps to adopt emergency by-laws establishing the terms and conditions for continuity of services during an emergency, in accordance with powers afforded by the Credit Union Act of 1984, at N.J.S.A. 17:13-89(l), N.J.S.A. 17:13-89(m) (credit unions have all corporate powers established in Title 14A not inconsistent with the act), and N.J.S.A. 14A-2-10 (By-laws and other powers in emergency). Under N.J.S.A. 14A:2-10(7), actions taken in accordance with duly promulgated emergency by-laws may shield a credit union's officers, directors and employees from liability.

B. Preparedness

All institutions are encouraged to review and practice their backup plans for items such as replenishment of ATM machines, generator upkeep, and temporary mobile branches.

II. Post-disaster actions

A. Exercising Forbearance

Major storms, weather events, and other conditions resulting in a state of emergency, greatly impact many New Jersey residents. Such effects often include extensive flooding and power outages, disrupted transportation and communication capabilities, and extensive property damage. The Department encourages all institutions to take into consideration these conditions and the difficulties that their borrowers, clients, and customers endure as a result of such states of emergency. The Department further encourages institutions to assist persons affected by such

conditions by relaxing documentation and other requirements such as due dates for loan payments and late fees, by exercising forbearance on collection and default declaration activities, and by working with borrowers, customers, and clients on creating payment plans or extensions as applicable. Borrowers, clients, and customers should be advised that forbearance of a mortgage or other loan is not a waiver; it is only an extension or grace period in which to pay the installment.

B. Emergency Mortgage Powers Exercisable by Institutions

Pursuant to N.J.S.A. 17:2A-2, the Commissioner “may adopt rules and regulations affecting financial institutions which hold, make or purchase mortgage loans within a disaster area during a period of emergency.” A “disaster area” means “any area of this State which has been proclaimed by the President of the United States or the Governor of this State or any official lawfully succeeding to their respective duties to be a disaster area within the meaning of applicable Federal or State law.” N.J.S.A. 17:2A-1.

“Such rules and regulations may, to the extent deemed necessary by the commissioner, authorize financial institutions to refinance, compromise, adjust or otherwise relax provisions of mortgage loans held by them on property within a disaster area, or to make or purchase mortgage loans on such property notwithstanding any law of this State concerning ratio of mortgage loans to appraised value, rank of lien, minimum amortization, maximum maturity date, prior appraisals, or other limitations which the commissioner determines should be waived, modified or relaxed during a period of emergency.” N.J.S.A. 17:2A-2.

Under the rules at N.J.A.C. 3:1-3.1 et seq., if the Commissioner finds that the value of real property in a disaster area that is security for mortgages has been materially affected, he may authorize institutions to exercise certain emergency mortgage powers. Such powers include, but are not limited to, (a) making additional mortgage loans, (b) reducing the loan’s interest rate, or (c) extending the amortization and payment term for additional periods of time.

C. Price Gouging

All institutions are advised that price gouging following a disaster is prohibited by N.J.S.A. 56:8-107 et seq. All institutions are urged to report instances of price gouging to the Department of Law and Public Safety, Division of Consumer Affairs, 124 Halsey Street, Newark, NJ, 07102, or e-mail: askconsumeraffairs@lps.state.nj.us.


D. Timeframe to Respond to Departmental Inquiries

In view of the potential hardships and disruptions consumers may experience following a declaration of a State of Emergency, the Commissioner encourages every institution to respond to the Department within five working days of receiving a Department inquiry, with a written response based on information available to the institution. This will enable institutions and the Department to better serve the needs of consumers in difficult circumstances.

In conclusion, the Department thanks institutions for their anticipated cooperation and compliance with regulatory measures prompted by concerns for consumers experiencing a state of emergency. We value your continued vigilance in serving the banking needs of our residents, especially during difficult times.

11/21/16

Date



Richard J. Badolato
Commissioner

Inoord/Banking Pre- and Post-Disaster Bulletin 2016