

CHAPTER 199

AN ACT establishing an assessment funding mechanism for the support of the Division of Banking in the Department of Banking and Insurance, imposing certain additional fees and amending and supplementing various parts of the statutory law.

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

C.17:1C-33 Findings, declarations relative to funding mechanism for Division of Banking.

1. a. The Legislature finds and declares that:

(1) The Division of Banking has a statutory obligation to protect the interests of New Jersey's consumers and to regulate and oversee the operations of the financial industry it charters, licenses and registers.

(2) In order to maintain an adequate level of oversight and supervision, and to perform its regulatory responsibilities, it is necessary to establish an assessment funding mechanism for the division's special needs.

(3) A banking assessment funding source is a clear indication of the commitment that the State of New Jersey has made to the special needs of the Division of Banking relative to its administrative activities with regard to the financial regulation, supervision and monitoring of the depository institutions and other financial entities it charters, licenses and registers.

(4) A dedicated funding mechanism for the Division of Banking is in the public interest.

b. The Legislature therefore intends for the actual incurred expenses of the Division of Banking for all services related to the division's financial regulation, supervision and monitoring of depository institutions and other financial entities it charters, licenses and registers to be assessed among these depository institutions, licensees and registrants.

C.17:1C-34 Definitions relative to funding mechanism for Division of Banking.

2. For the purposes of this act:

"Assessment" means the assessment imposed pursuant to section 3 of this act for the special functions of the division as provided in that section.

"Commissioner" means the Commissioner of Banking and Insurance.

"Department" means the Department of Banking and Insurance.

"Depository institution" means any entity holding a state charter for a bank, savings bank, savings and loan association or credit union, irrespective of whether the entity accepts deposits.

"Division" means the Division of Banking in the Department of Banking and Insurance.

"Other financial entity" means a person who is licensed or registered pursuant to: the "New Jersey Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.); "The Check Cashers Regulatory Act of 1993," P.L.1993, c.383 (C.17:15A-30 et seq.); the "New Jersey Money Transmitters Act," P.L.1998, c.14 (C.17:15C-1 et seq.); the "Insurance Premium Finance Company Act," P.L.1968, c.221 (C.17:16D-1 et seq.); the "Retail Installment Sales Act of 1960," P.L.1960, c.40 (C.17:16C-1 et seq.); the "Door-to-Door Retail Installment Sales Act of 1968," P.L.1968, c.223 (C.17:16C-61.1 et seq.); the "Home Repair Financing Act," P.L.1960, c.41 (C.17:16C-93 et seq.); the "Door-to-Door Home Repair Sales Act of 1968," P.L.1968, c.224 (C.17:16C-95 et seq.); P.L.1979, c.16 (C.17:16G-1 et seq.); or the "pawnbroking law," R.S.45:22-1 et seq.

"Regulated entity" means a depository institution, other financial entity or person chartered, licensed or registered by the Division of Banking or who should be chartered, licensed or registered.

C.17:1C-35 Certification of expenses incurred for special administration of functions of Division of Banking; assessments.

3. a. The Director of the Division of Budget and Accounting in the Department of the Treasury shall, on or before August 15 in each year, ascertain and certify to the commissioner by category the total amount of expenses incurred by the State in connection with the administration of the special functions of the Division of Banking in the Department of Banking and Insurance relative to the financial regulation, supervision and monitoring of depository institutions and other financial entities it licenses during the preceding fiscal year. Those expenses shall include, in addition to the direct cost of personal service, the cost of maintenance and operation, the cost of employee benefits and the workers' compensation paid for and on

account of personnel, rentals for space occupied in State-owned or State-leased buildings and all other direct and indirect costs of the administration of those functions of the department, as well as any amounts remaining uncollected from the assessment of the previous fiscal year. Certification made pursuant to this subsection shall be made by the Director of the Division of Budget and Accounting.

b. (1) Upon receipt of the certification made by the Director of the Division of Budget and Accounting pursuant to subsection a. of this section, but no later than September 1 in each year following the close of the previous fiscal year, the commissioner shall issue, in accordance with the provisions of this section, the assessment for the amount of the expenses incurred by, or on behalf of, the department for those special purposes recognized in this act.

(2) Assessments made pursuant to this section shall be distributed among all regulated entities in accordance with regulations promulgated by the commissioner pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. The commissioner shall certify the amount of the assessment issued to each regulated entity. Each regulated entity shall remit the amount so certified and assessed to it to the department in accordance with the procedures established in this act. Amounts collected by the department shall be used for reimbursement to the State for expenses incurred in connection with the special functions of the division relative to the financial regulation, supervision and monitoring of depository institutions and other financial entities it charters, licenses or registers, provided that the amount collected for those expenses shall not exceed the amount appropriated by the Legislature for those expenses.

C.17:1C-36 Objections to assessment, hearing.

4. Within 15 days after the date of mailing a statement of the assessment as provided in this act, a regulated entity may file its objections to its assessment with the commissioner. Upon receiving those objections, the commissioner shall either: amend the statement as warranted, consistent with sections 5 and 6 of this act; or schedule and send a notice of a hearing on the objections, which hearing shall be held not less than 30 nor more than 60 days after the date of the notice.

C.17:1C-37 Transmission of findings to objector.

5. If upon receiving the objections, or after the hearing, the commissioner finds any part of the assessment against the objecting regulated entity excessive, erroneous, unlawful or invalid, he shall transmit to the objector, by registered mail, his findings and an amended statement of the assessment in accordance with those findings, which shall have the same force and effect as an original statement of the assessment. If the commissioner finds the entire statement of the assessment unlawful or invalid, he shall notify the objector, by registered mail, of that determination, and the original statement of the assessment shall be null and void. If the commissioner finds that the statement as rendered is neither excessive, erroneous, unlawful or invalid, in whole or in part, he shall transmit notice thereof to the objector by registered mail.

C.17:1C-38 Notice of delinquency, collection.

6. If a statement of the assessment against which objections are filed is not paid in full within 30 days after the date of mailing to the objector of notice of a finding that the objections have been disallowed; or if an amended statement of the assessment is not paid within 30 days of the date a copy thereof is mailed by registered mail to the objector, the commissioner shall give notice of the delinquency to the State Treasurer and to the objector, and the State Treasurer shall proceed to make the collection.

C.17:1C-39 Action for recovery.

7. No action for recovery of an amount paid under this act shall be maintained in any court unless objections have been filed with the commissioner. In an action for recovery of any payments, plaintiff may raise any relevant issue of law, but the commissioner's findings of fact shall be presumptive evidence of the facts therein stated.

C.17:1C-40 Action, proceeding.

8. No action or proceeding shall be maintained in any court for the purpose of restraining or delaying the collection or payment of a statement of the assessment rendered in accordance with the provisions of this act. A regulated entity against which a statement of the assessment is rendered shall pay the amount thereof, and after the payment may, in the manner provided by this act at any time within two years from the date of the payment, bring an action at law against the State to recover the amount paid, with legal interest thereon from the date of payment, upon the ground that the assessment was excessive, erroneous, unlawful or invalid, in whole or in part.

C.17:1C-41 Exclusive procedure under act.

9. The procedure provided in this act for determining the lawfulness of statements of the assessment and the recovery of payments made pursuant to those statements of the assessment shall be exclusive of all other remedies and procedures.

C.17:1C-42 Failure, refusal to pay, notice to Treasurer.

10. If any regulated entity to which a statement of the assessment as provided in this act has been mailed fails or refuses to pay the amount within 30 days, or fails to file with the commissioner objections to the statement of the assessment as provided in this act, the commissioner shall transmit to the State Treasurer a certified copy of both the statement of the assessment and the notice of the neglect or refusal of the regulated entity to pay the amount thereof, and at the same time shall mail by registered mail to the entity a copy of the items transmitted to the State Treasurer.

C.17:1C-43 Procedure for collection.

11. Within 10 days after receipt of the notice and certified copy of the statement of the assessment, the State Treasurer shall proceed to collect the amount stated to be due, with legal interest, by seizure and sale of any goods or chattels, including stocks, securities, bank accounts, surety bonds, realty, evidences of debt and accounts receivable belonging to the regulated entity anywhere within the State. The State Treasurer shall not seize any goods or chattels held by the regulated entity on behalf of another.

C.17:1C-44 Additional remedies.

12. As an additional remedy, the State Treasurer may issue a certificate to the Clerk of the Superior Court, that a regulated entity is indebted under this act in an amount stated in the certificate. The clerk shall immediately enter upon his record of docketed judgments the name of the regulated entity, and of the State, the amount of debt so certified, and the date of the entry. The entry shall have the same force and effect as the entry of a docketed judgment in the office of the clerk, and the State Treasurer shall have all the remedies and may take all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action, but without prejudice to the regulated entity's right of appeal.

C.17:1C-45 Exemption from fees, charges; exceptions.

13. a. Notwithstanding any law or regulation to the contrary, a regulated entity paying the amounts assessed to it in statements of the assessment made pursuant to section 3 of this act shall be exempt from all fees or charges imposed by the division pursuant to any other provision of law or regulation, except for:

- (1) charter fees;
- (2) application fees for licenses;
- (3) mortgage solicitor registration application fees;
- (4) fees for entry by a foreign depository institution whether from another state of the United States or from another country into New Jersey for branch, trust or other activities;
- (5) fees charged under the "Governmental Unit Deposit Protection Act," P.L.1970, c.236 (C.17:9-41 et seq.);
- (6) fees charged any entity not chartered, licensed or registered by this State, including but not limited to activities conducted by foreign banks pursuant to section 316 of P.L.1948, c.47

(C.17:9A-316) or foreign associations pursuant to section 214 of P.L.1963, c.144 (C.17:12B-214); and

(7) fees charged qualified corporations authorized pursuant to section 213 of P.L.1948, c.67 (C.17:9A-213) to perform either registrar and transfer agent activities or activities permitted for qualified educational institutions.

b. Nothing in this section shall exempt a regulated entity from paying any fine or penalty imposed by the commissioner for a violation of a statute or regulation.

c. Except as provided in paragraph (1) of subsection d. of section 7 of the "New Jersey Home Ownership Security Act of 2002," P.L.2003, c.64 (C.46:10B-28), all fees, charges, fines and penalties as described in subsections a. and b. of this subsection shall be remitted to the State Treasurer for deposit into the General Fund, and those fees, charges, fines and penalties shall not be part of the assessment funding mechanism or considered in the calculation pursuant to section 15 of this act.

C.17:1C-46 Rules, regulations; contents.

14. a. The State Treasurer and the commissioner may adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

b. Any regulation promulgated by the commissioner shall describe the factors to be considered in computing the assessment. In the case of depository institutions, the assessment shall consider the following factors as appropriate: assets, deposits or shares, trust funds under management and the supervisory rating of the institution. In the case of licensees or registrants, the assessment shall consider the following factors as appropriate: loan volume, volume of money transmitted, number of transactions, volume of checks cashed, number of licensee branches, number of authorities held under the "New Jersey Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.) and the supervisory rating of the entity. In computing the assessment for depository institutions, licensees or registrants, the commissioner may consider those additional factors the commissioner deems appropriate.

c. The general purpose of the computations to determine the assessment shall be to distribute the financial burden proportionally among the depository institutions and other financial entities it charters, licenses and registers consistent with the division's regulatory activities.

d. The commissioner shall provide for the orderly and fair transition to assessments on existing charters, licensees and registrants by promulgating rules and regulations and by establishing administrative procedures that are reasonable, necessary and consistent with this act.

e. The commissioner shall consider the impact of the assessment on check cashers licensed pursuant to P.L.1993, c.383 (C.17:15A-30 et seq.), and may take any appropriate action pursuant to the commissioner's authority to limit fees as provided in section 14 of P.L.1993, c.383 (C.17:15A-43).

C.17:1C-47 Total amount assessable.

15. a. The total amount assessable to regulated entities in any fiscal year for the assessment established by this act shall not exceed the lesser of:

(1) the total amount of expenses incurred by the State in connection with the administration of the special functions of the division pursuant to section 3 of this act during the preceding fiscal year as ascertained by the Director of the Division of Budget and Accounting in the Department of the Treasury, on or before August 15 in each year, and certified to the commissioner by category; or

(2) .00015 times the sum of (a) the total assets for State-chartered banks, savings banks, and savings and loan associations for the preceding calendar year plus (b) the total loan volume for residential mortgage loans closed by licensed lenders pursuant to the "New Jersey Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.).

b. In calculating the assessments:

(1) Banks, savings banks and savings and loan associations shall be given prorated credit for unused portions of assessment periods; and

(2) Licensees shall be given prorated credit for unused portions of licensing periods.

c. The department shall not issue an examination bill for an examination that has not been completed by the date that the regulated entity becomes subject to the assessment pursuant to the provisions of this act. For the purposes of this act, the completion of the examination shall not include the time to process and review the examination report.

C.17:1C-48 Liability for errors, penalties; third degree crime.

16. a. A depository institution that submits figures on assets, deposits or any other factor used by the department to compute the depository institution's assessment that are substantially or materially in error shall be liable for an administrative penalty not to exceed \$10,000 for each submission that contains incorrect information.

b. A licensee that submits figures on loan volume, number of branches, or any other factor used by the department to compute the licensee's assessment that are substantially or materially in error shall be liable for an administrative penalty not to exceed \$10,000 for each submission that contains incorrect information.

c. In addition to any monetary penalty that may be imposed against a licensee pursuant to subsection b. of this section, the commissioner may take action to revoke, suspend or refuse to renew the license of a licensee that submits substantially or materially erroneous figures in violation of the provisions of this act. The suspension, revocation or refusal to renew a license shall be in addition to any monetary penalty imposed pursuant to subsection b. of this section.

d. The administrative penalty authorized pursuant to this section may be recovered in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). A willful violation of this section shall be considered a crime of the third degree.

17. Section 8 of P.L.1996, c.157 (C.17:11C-8) is amended to read as follows:

C.17:11C-8 Application, fee.

8. a. Every application for an initial license shall be accompanied by an application fee as set forth in subsection d. of this section. When the applicant at the same time seeks a license to engage in more than one activity, only one application fee may be charged. With respect to a license fee imposed prior to the implementation of the assessment pursuant to P.L.2005, c.199 (C.17:1C-33 et al.), the license fee, as prescribed by the commissioner by regulation, shall be based on the number of the following activities in which the person is licensed to engage under this act or the "Retail Installment Sales Act of 1960," P.L.1960, c.40 (C.17:16C-1 et seq.): a mortgage banker or mortgage broker; a secondary lender; a consumer lender; or a sales finance company. The fee for a biennial license or a renewal thereof shall be set according to the following schedule:

- (1) If the person is licensed to engage in one activity, the fee shall not be more than \$3,000;
- (2) If the person is licensed to engage in two activities, the fee shall not be more than \$4,000;
- (3) If the person is licensed to engage in three activities, the fee shall not be more than \$5,000; and
- (4) If the person is licensed to engage in all four activities, the fee shall not be more than \$6,000.

Upon implementation of the assessment pursuant to P.L.2005, c.199 (C.17:1C-33 et al.), a license fee shall no longer be imposed or collected by the commissioner pursuant to this section.

b. When the initial license is issued in the second year of the biennial licensing period, the license fee shall equal one-half of the license fee for the biennial period set forth above. In lieu of, or in addition to, the fees set forth above, the department may impose other fees and charges as provided by regulation.

c. An applicant for a mortgage solicitor registration pursuant to subsection c. of section 3 of P.L.1996, c.157 (C.17:11C-3) shall be subject to a mortgage solicitor registration application fee, not to exceed \$100 as established by the commissioner by regulation. A solicitor who changes his registration to a different licensee shall be required to submit a new registration application and to pay an application fee.

d. An applicant shall pay to the commissioner at the time of the initial application for a license an application fee not to exceed the amounts specified in this subsection:

- (1) For an application for one activity, an application fee not to exceed \$700;
- (2) For an application for two activities, an application fee not to exceed \$1,000;
- (3) For an application for three activities, an application fee not to exceed \$1,300; and
- (4) For an application for four activities, an application fee not to exceed \$1,600.

e. A licensee that seeks to add an additional activity to an existing license shall pay a fee not to exceed \$300 per activity.

f. Fee amounts shall be prescribed by the commissioner by regulation.

18. Section 8 of P.L.1960, c.40 (C.17:16C-8) is amended to read as follows:

C.17:16C-8 Motor vehicle installment seller; license, application fee.

8. With respect to a license fee imposed prior to the implementation of the assessment pursuant to P.L.2005, c.199 (C.17:1C-33 et al.), every motor vehicle installment seller shall pay to the commissioner at the time of making the application and biennially thereafter upon renewal a license fee for its principal office and for each additional place of business conducted in this State. The commissioner shall charge for a license such fee as he shall prescribe by rule or regulation. Each fee shall not exceed \$300.00. The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the fee shall be an amount equal to one-half of the license fee for the biennial licensing period. Upon implementation of the assessment pursuant to P.L.2005, c.199 (C.17:1C-33 et al.), a license fee shall no longer be imposed or collected by the commissioner pursuant to this section, however a motor vehicle installment seller shall pay to the commissioner at the time of application an application fee not to exceed \$300.00.

19. Section 18 of P.L.1960, c.40 (C.17:16C-18) is amended to read as follows:

C.17:16C-18 Maintenance of books, accounts and records.

18. Every retail seller, sales finance company, motor vehicle installment seller and holder shall maintain at its place or places of business in this State such books, accounts and records relating to all transactions within this act as will enable the commissioner to enforce full compliance with the provisions of this act.

20. Section 19 of P.L.1960, c.40 (C.17:16C-19) is amended to read as follows:

C.17:16C-19 Preservation of books, accounts, records, annual report.

19. All books, accounts and records of the licensee shall be preserved and kept available as provided herein for such period of time as the commissioner may by regulation require. The commissioner may require a licensee to file an annual report containing that information required by the commissioner by regulation concerning business conducted as a licensee in the preceding calendar year. The report shall be submitted under oath and in the form specified by the commissioner by regulation.

21. Section 21 of P.L.1960, c.41 (C.17:16C-82) is amended to read as follows:

C.17:16C-82 License fees.

21. (a) With respect to a license fee imposed prior to the implementation of the assessment pursuant to P.L.2005, c.199 (C.17:1C-33 et al.), every home financing agency shall pay to the commissioner at the time of making the application and biennially thereafter upon renewal a license fee for its principal place of business and for each additional place of business conducted in this State. The commissioner shall charge for a license such fee as he shall prescribe by rule or regulation. Each fee shall not exceed \$600.00. The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the fee for the

biennial licensing period. Upon implementation of the assessment pursuant to P.L.2005, c.199 (C.17:1C-33 et al.), a license fee shall no longer be imposed or collected by the commissioner pursuant to this section, however a home financing agency shall pay to the commissioner at the time of application an application fee not to exceed \$600.00.

(b) With respect to a license fee imposed prior to the implementation of the assessment pursuant to P.L.2005, c.199 (C.17:1C-33 et al.), every home repair contractor shall pay to the commissioner at the time of making the application and biennially thereafter upon renewal a license fee for its principal place of business and for each additional place of business conducted in this State. The commissioner shall charge for a license such fee as he shall prescribe by rule or regulation. Each fee shall not exceed \$300.00. The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the fee for the biennial licensing period. Upon implementation of the assessment pursuant to P.L.2005, c.199 (C.17:1C-33 et al.), a license fee shall no longer be imposed or collected by the commissioner pursuant to this section, however a home repair contractor shall pay to the commissioner at the time of application an application fee not to exceed \$300.00.

(c) With respect to a license fee imposed prior to the implementation of the assessment pursuant to P.L.2005, c.199 (C.17:1C-33 et al.), every home repair salesman shall pay to the commissioner at the time of making the application and biennially thereafter upon renewal a license fee. The commissioner shall charge for a license such fee as he shall prescribe by rule or regulation, not to exceed \$60.00. The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the fee for the biennial licensing period. Upon implementation of the assessment pursuant to P.L.2005, c.199 (C.17:1C-33 et al.), a license fee shall no longer be imposed or collected by the commissioner pursuant to this section, however a home repair salesman shall pay to the commissioner at the time of application an application fee not to exceed \$60.00.

22. Section 26 of P.L.1960, c. 41 (C.17:16C-87) is amended to read as follows:

C.17:16C-87 Maintenance and preservation of books, accounts and records, annual report.

26. a. Every home repair contractor, home financing agency and holder of a home repair contract shall maintain at its place or places of business such books, accounts and records relating to all transactions under this act as will enable the commissioner to enforce full compliance with the provisions hereof. All such books, accounts and records shall be preserved and kept available for such period of time as the commissioner may by regulation require. The commissioner may prescribe the minimum information to be shown in such books, accounts and records of the licensee so that such records will enable the commissioner to determine compliance with the provisions of this act.

b. The commissioner may require a licensee to file an annual report containing that information required by the commissioner by regulation concerning business conducted as a licensee in the preceding calendar year. The report shall be submitted under oath and in the form specified by the commissioner by regulation.

23. Section 4 of P.L.1968, c.221 (C.17:16D-4) is amended to read as follows:

C.17:16D-4 Licenses.

4. Licenses. No person shall engage in the business of financing insurance premiums in this State without first having obtained a license as a premium finance company from the Commissioner of Banking and Insurance, except that any State or national bank authorized to do business in this State shall be authorized to transact business as a premium finance company, subject to all of the provisions of this act, except that it shall not be required to obtain a license or pay a license fee hereunder. Any person who shall engage in the business of financing insurance premiums in this State without a valid license as provided hereunder shall, upon conviction as provided in R.S. 17:33-2, be subject to a fine of not more than \$300.00. With

respect to a license fee imposed prior to the implementation of the assessment pursuant to P.L.2005, c.199 (C.17:1C-33 et al.), the commissioner shall charge for a license such fee as he shall prescribe by rule or regulation, not to exceed \$1,000.00. Upon implementation of the assessment pursuant to P.L.2005, c.199 (C.17:1C-33 et al.), a license fee shall no longer be imposed or collected by the commissioner pursuant to this section, however an insurance premium finance agency shall pay to the commissioner at the time of application an application fee not to exceed \$1,000.00. The license shall run from the date of issuance to the end of the biennial period. With respect to a license fee imposed prior to implementation of the assessment pursuant to P.L.2005, c.199 (C.17:1C-33 et al.), when the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the fee for the biennial licensing period.

Licenses may be renewed from year to year as of January 1 of each year upon payment of the fee established by the commissioner with respect to a license fee imposed prior to implementation of the assessment pursuant to P.L.2005, c.199 (C.17:1C-33 et al.). The fee imposed prior to implementation of the assessment pursuant to P.L.2005, c.199 (C.17:1C-33 et al.), for said license shall be paid to the commissioner for the use of the State. No portion of the license fee imposed prior to implementation of the assessment pursuant to P.L.2005, c.199 (C.17:1C-33 et al.), shall be refunded if the license is surrendered by the licensee or suspended or revoked by the commissioner.

Before any licensee changes his address he shall return his license to the commissioner who shall indorse the license indicating the change.

The person to whom the license or the renewal thereof may be issued shall file sworn answers, subject to the penalties of perjury, to such interrogatories as the commissioner may require. The commissioner shall have authority, at any time, to require the applicant fully to disclose the identity of all stockholders, partners, officers and employees, and he may, in his discretion, refuse to issue or renew a license in the name of any firm, partnership, or corporation if he is not satisfied that any officer, employee, stockholder, or partner thereof who may materially influence the applicant's conduct meets the standards of this act.

24. Section 5 of P.L.1979, c.16 (C.17:16G-5) is amended to read as follows:

C.17:16G-5 Bond; financial records; annual audit; filing; examination of agency; annual reports.

5. a. Any social service agency or consumer credit counseling agency licensed under this act shall be bonded to the satisfaction of the commissioner and shall have its financial records relating to debt adjustment audited annually by a certified public accountant or a public accountant, which audit shall be filed with the commissioner. Such an audit shall certify that the salaries and expenses paid by the licensee are reasonable compared to those incurred by comparable organizations providing similar services. After reviewing the annual audit, the Commissioner of Banking and Insurance may cause an examination of the social service agency or consumer credit counseling agency to be made, the actual expenses of such an examination shall be paid by the social service agency or consumer credit counseling agency; and the commissioner may maintain any action against any such agency to recover the fees and expenses herein provided for.

b. The commissioner may require a licensee to file an annual report containing that information required by the commissioner by regulation concerning activities conducted as a licensee in the preceding calendar year. The report shall be submitted under oath and in the form specified by the commissioner by regulation.

c. The commissioner may require a high cost home loan counselor to file an annual report containing that information required by the commissioner by regulation concerning activities conducted pursuant to subsection g. of section 5 of P.L.2003, c.64 (C.46:10B-26) as a registrant in the preceding calendar year. The report shall be submitted under oath and in the form specified by the commissioner by regulation.

25. Sections 3 and 14 of this act shall take effect immediately, and the remainder of this act shall take effect upon the adoption of regulations pursuant to sections 3 and 14 of this act, but

no assessment shall be payable earlier than July 1, 2006. The commissioner may take those anticipatory actions necessary to effectuate the provisions of this act.

Approved August 18, 2005.