

TITLE 2A ADMINISTRATION OF CIVIL AND CRIMINAL JUSTICE

2A:23A-24. ~~Subpenas~~ Subpoenas

The arbitrators may, at their initiative or at the request of any party to the arbitrators, issue ~~subpenas~~ subpoenas for the attendance of witnesses and the production of books, records, documents and other evidence. ~~Subpenas~~ Subpoenas shall be served and shall be enforceable in the manner provided by law.

L. 1987,c.329, s.5.

2A:24-6. Hearing by arbitrators; witnesses; fees; subpoena

When more than 1 arbitrator is agreed upon, all the arbitrators shall sit at the hearing of the case, unless by written consent, all parties agree to a lesser number.

The arbitrator so sitting or an attorney of record in the arbitration proceeding may require the attendance of any person as a witness and, in a proper case, to bring with him any book or written instrument. The fees for the attendance shall be those allowed witnesses in a civil action in the Superior Court.

An arbitrator, or where more than one arbitrator is sitting, a majority of them, or an attorney of record in the arbitration proceeding, may issue ~~subpena~~ subpoena. The ~~subpena~~ subpoena shall issue in the name of the arbitrator. The ~~subpena~~ subpoena shall be signed by an arbitrator, or a majority of them, or an attorney of record, as the case may be. The ~~subpena~~ subpoena shall be directed to the person therein named and served in the same manner as a ~~subpena~~ subpoena to testify before the Superior Court. If any person so ~~subpenaed~~ subpoenaed to testify shall refuse or neglect to obey such ~~subpena~~ subpoena, the court, upon motion, may compel his attendance before the arbitrator or punish him for contempt in the manner provided for the attendance of witnesses or their punishment in the Superior Court.

L.1951 (1st SS), c.344; amended by L.1984, c. 187, s. 1, eff. Nov. 15, 1984.

2A:84A-21.1. Criminal proceeding; ~~Subpena~~ Subpoena; disclosure of information; application of act

Where a newsperson is required to disclose information pursuant to a ~~subpena~~ subpoena issued by or on behalf of a defendant in a criminal proceeding, not including proceedings before administrative or investigative bodies, grand juries, or legislative committees or commissions, the provisions and procedures in this act are applicable to the claim and exercise of the newsperson's privilege under Rule 27 (C. 2A:84A-21).

L.1979, c. 479, s. 1, eff. Feb. 27, 1980.

2A:84A-21.3. Prima facie showing ~~subpenaed~~ subpoenaed materials obtained during professional activities; waiver of privilege or other grounds for disclosure; hearing

a. To sustain a claim of the newsperson's privilege under Rule 27 the claimant shall make a prima facie showing that he is engaged in, connected with, or employed by a news media for the purpose of gathering, procuring, transmitting, compiling, editing or disseminating news for the general public or on whose behalf news is so gathered, procured, transmitted, compiled, edited or disseminated, and that the subpoenaed materials were obtained in the course of pursuing his professional activities.

b. To overcome a finding by the court that the claimant has made a prima facie showing under a. above, the party seeking enforcement of the ~~subpena~~ subpoena shall show by clear and convincing evidence that the privilege has been waived under Rule 37 (C. 2A:84A-29) or by a preponderance of the evidence that there is a reasonable probability that the ~~subpenaed~~ subpoenaed materials are relevant, material and necessary to the defense, that they could not be secured from any less intrusive source, that the value of the material sought as it bears upon the issue of guilt or innocence outweighs the privilege against disclosure, and that the request is not overbroad, oppressive, or unreasonably burdensome which may be overcome by evidence that all or part of the information sought is irrelevant, immaterial, unnecessary to the defense, or that it can be secured from another source. Publication shall constitute a waiver only as to the specific materials published.

c. The determinations to be made by the court pursuant to this section shall be made only after a hearing in which the party claiming the privilege and the party seeking enforcement of the ~~subpena~~ subpoena shall have a full opportunity to present evidence and argument with respect to each of the materials or items sought to be ~~subpenaed~~ subpoenaed.

L.1979, c. 479, s. 3, eff. Feb. 27, 1980.

2A:84A-21.4. In camera inspection; hearing; determination of admissibility; order for production

Upon a finding by the court that there has been a waiver as to any of the materials sought or that any of the materials sought meet the criteria set forth in subsection 3.b., the court shall order the production of such materials, and such materials only, for in camera inspection and determination as to its probable admissibility in the trial. The party claiming the privilege and the party seeking enforcement of the ~~subpena~~ subpoena shall be entitled to a hearing in connection with the in camera inspection of such materials by the court, during which hearing each party shall have a full opportunity to be heard. If the court, after its in camera review of the materials, determines that such materials are admissible according to the standards set forth in subsection 3.b., the court shall direct production of such materials, and such materials only.

L.1979, c. 479, s. 4, eff. Feb. 27, 1980.

2A:84A-21.6. Appeals; stay of penalty; sealing of record; return of privileged material

An interlocutory appeal taken from a decision to uphold or quash a ~~subpena~~ subpoena shall act as a stay of all penalties which may have been imposed for failure to comply with the court's order. The record on appeal shall be kept under seal until such time as appeals are exhausted. In the event that all material or any part thereof is found to be privileged, the record as to that privileged material shall remain permanently sealed. Any ~~subpenaed~~ subpoenaed materials which shall, upon exhaustion and determination of such appeals, be found to be privileged, shall be returned to the party claiming the privilege.

L.1979, c. 479, s. 6, eff. Feb. 27, 1980.

2A:84A-21.7. Co-defendants; notice of proceedings; right to intervene

Where proceedings are instituted hereunder by one of several co-defendants in a criminal trial, notice shall be provided to all of the co-defendants. Any co-defendant shall have the right to intervene if the co-defendant can demonstrate, pursuant to section 3, that the materials sought by the issuance of the ~~subpena~~ subpoena bear upon his guilt or innocence. Where such intervention is sought by a co-defendant, that co-defendant shall be required, prior to being permitted to participate in any in camera proceeding, to make that showing required of a defendant in section 3.

L.1979, c. 479, s. 7, eff. Feb. 27, 1980.

2A:84A-21.8. Assessment of costs or counsel fee

If the court finds no reasonable basis for requesting the information has been shown, costs, including counsel fee, may be assessed against the party seeking enforcement of the ~~subpena~~ subpoena. Where an application for costs or counsel fee is made, the judge shall set forth his reasons for awarding or denying same.

L.1979, c. 479, s. 8, eff. Feb. 27, 1980.

2A:84A-21.9. News media person or entity; freedom from searches and seizures of documentary materials; exceptions

Any person, corporation, partnership, proprietorship or other entity engaged on, engaged in, connected with, or otherwise employed in gathering, procuring, transmitting, compiling, editing, publishing, or disseminating news for the public, or on whose behalf news is so gathered, procured, transmitted, compiled, edited, published or disseminated shall be free from searches and seizures, by State, county and local law enforcement officers with respect to any documentary materials obtained in the course of pursuing the aforesaid activities whether or not such material has been or will be disseminated or published.

This section shall not restrict or impair the ability of any law enforcement officer, pursuant to otherwise applicable law, to search for or seize such materials, if there is probable cause to believe that:

a. The person, corporation, partnership, proprietorship or other entity possessing the materials has committed or is committing the criminal offense for which the materials are sought; or

b. The immediate seizure of the materials is necessary to prevent the death of or serious bodily injury to a human being; or

c. The giving of notice pursuant to a ~~subpena~~ subpoena duces tecum would result in the destruction, alteration or deliberate concealment of the documentary materials other than work product; or

d. The documentary materials, other than work product, have not been produced in response to a court order directing compliance with a ~~subpena~~ subpoena duces tecum, and

(1) All appellate remedies have been exhausted by the party seeking to quash the ~~subpena~~ subpoena duces tecum; or

(2) There is a probability that the delay in an investigation or trial occasioned by further proceedings relating to the ~~subpena~~ subpoena would threaten the interests of justice. In the event a search warrant is sought pursuant to this subparagraph, the person, corporation, partnership, proprietorship or other entity possessing the materials shall be afforded adequate opportunity to submit an affidavit to the court setting forth the basis for any contention that the materials sought are not subject to seizure.

L.1979, c. 488, s. 1, eff. Feb. 28, 1980.

TITLE 2C THE NEW JERSEY CODE OF CRIMINAL JUSTICE

2C:41-5. Investigative interrogatories

a. Whenever the Attorney General determines that there exists a reasonable suspicion that any person or enterprise may have information or be in possession, custody, or control of any documentary materials relevant to an investigation under this chapter, or whenever the Attorney General believes it to be in the public interest that an investigation be made pursuant to this chapter, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon the person, an investigative interrogatory requiring him to answer and produce material for examination.

b. Each interrogatory shall:

(1) State the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable thereto;

(2) Advise the person that he has the right to discuss the interrogatory with legal counsel prior to returning it to the Attorney General or prior to making material available as provided hereinafter in subsection f. and that he has the right to file in Superior Court a petition to modify or set aside the interrogatory pursuant to subsection j. hereinafter;

(3) Describe the class or classes of documentary material to be produced thereunder with such specificity and certainty as to permit the material to be fairly identified;

(4) Prescribe a return date which will provide a reasonable period of time within which answers may be made and material so demanded may be assembled and made available for inspection and copying or reproduction as provided hereinafter in subsection f.

c. No interrogatory shall:

(1) Contain any requirement which would be held to be unreasonable if contained in a ~~subpena~~ subpoena duces tecum issued in aid of a grand jury investigation; or

(2) Require the production of any documentary evidence which would be otherwise privileged from disclosure if demanded by a ~~subpena~~ subpoena duces tecum issued in aid of a grand jury investigation.

d. Service of any interrogatory filed under this section may be made upon a person by:

(1) Delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of the person, or upon any individual person; or

(2) Delivering a duly executed copy thereof to the principal office or place of business of the person to be served; or

(3) Depositing a copy in the United States mail, by registered or certified mail duly addressed to the person at his principal office or place of business.

e. A verified return by the individual serving any interrogatory, setting forth the manner of service shall be prima facie proof of service. In the case of service by registered or certified mail, the return shall be accompanied by the return post office receipt of delivery of the interrogatory.

f. Any person upon whom any interrogatory issued under this section has been duly served which requires the production of materials shall make the material available for inspection and copying or reproduction to the Attorney General at the principal place of business of that person in the State of New Jersey or at such other place as the Attorney General and the person thereafter may agree and prescribe in writing, on the return date specified in the interrogatory or on a later date as the Attorney General may prescribe in writing. Upon written agreement between the person and the Attorney General, copies may be substituted for all or any part of the original materials. The Attorney General may cause the preparation of any copies of documentary material as may be required for official use by the Attorney General.

No material produced pursuant to this section shall be available for examination, without the consent of the person who produced the material, by an individual other than the Attorney General or any person retained by the Attorney General in connection with the enforcement of this act. Under reasonable terms and conditions as the Attorney General shall prescribe, documentary material while in his possession shall be available for examination by the person who produced the material or any duly authorized representatives of the person.

In any case or proceeding involving any alleged violation of this chapter, the Attorney General may present before any court or Grand Jury, any such documentary material in his possession pursuant to this section subject to any protective order deemed proper by the Superior Court.

Any person who shall disclose to any person other than the Attorney General or a person retained by the Attorney General as set forth above, the name of any person who receives an investigative interrogatory or any information obtained pursuant thereto, except in proceedings involving an alleged violation of this chapter and except as so directed by the Attorney General shall be guilty of a crime of the fourth degree.

g. Upon completion of:

(1) The review and investigation for which any documentary material was produced under this section, and

(2) Any case or proceeding arising from the investigation, the Attorney General shall return to the person who produced the material all the material other than copies thereof made by the Attorney General pursuant to this section which has not passed into the control of any court or grand jury through the introduction thereof into the record of the case or proceeding.

h. When any documentary material has been produced by any person under this section for use in any racketeering investigation, and no case or proceeding arising therefrom has been instituted within 2 years after completion of the examination and analysis of all evidence assembled in the course of the investigation, the person shall be entitled, upon written demand made upon the Attorney General, to the return of all documentary material other than copies thereof made pursuant to this section so produced by the person.

i. Whenever any person fails to comply with any investigative interrogatory duly served upon him under this section or whenever satisfactory copying or reproduction of any material cannot be done and the person refuses to surrender the material, the Attorney General may file in the Superior Court a petition for an order of the court for the enforcement of this section.

j. At any time before the return date specified in the interrogatory, such person may file in the Superior Court a petition for an order modifying or setting aside the interrogatory. The time allowed for compliance of the interrogatory, in whole or in part as deemed proper and ordered by the court, shall not run during the pendency of such petition in the court. The petition shall specify each ground upon which the petitioner relies in seeking relief, and may be based upon

any failure of the interrogatory to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the petitioner. In such proceeding the Attorney General shall establish the existence of an investigation pursuant to this chapter and the nature and subject matter of the investigation.

L.1981, c. 167, s. 2, eff. June 15, 1981.

TITLE 3B ADMINISTRATION OF ESTATES--DECEDENTS AND OTHERS

3B:10-13. Duty to apply in this State for original letters of administration

When an intestate is resident in any county of New Jersey at his death, it shall be the duty of the heir or any other person desiring original letters of administration upon his estate to make application therefor to the surrogate of that county or to the Superior Court of this State.

Any person having knowledge of the grant in a foreign jurisdiction of original letters of administration upon the estate of a person dying resident in any county of New Jersey, shall give information thereof to the Superior Court.

The court may direct the clerk of the court to issue and have served ~~subpenas~~ subpoenas or an order to show cause requiring the appearance before it, at a specified time, of any persons having any interest in the estate, and commanding them to abide the order of the court. The matter of the grant of letters of administration shall be wholly within the jurisdiction of the court.

L.1981, c. 405, s. 3B:10-13, eff. May 1, 1982.

3B:14-46. "Process" defined

The word "process" as used in this subarticle shall include any summons, ~~subpena~~ subpoena, writ, attachment and levy thereunder, garnishment, rule, order, notice, decision, judgment or execution and levy thereunder, or any other process whatsoever, that may lawfully be issued out of any court of this State against a fiduciary in any proceeding affecting the estate which he may represent or affecting the property or interest of any beneficiary of, or interested in, the estate or against the property or interest of any beneficiary which is held or claimed to be held by the fiduciary for the account or benefit of the beneficiary.

L.1981, c. 405, s. 3B:14-46, eff. May 1, 1982.

TITLE 4 AGRICULTURE AND DOMESTIC ANIMALS

4:11-43. ~~Subpena~~ Subpoena; issuance; failure to obey

The superintendent shall have the power to issue ~~subpenas~~ subpoenas to compel production of any pertinent records, books or documents or the attendance of witnesses in any matter pertaining to his duties under this act and shall have the power to administer oaths in taking

testimony. ~~Subpenas~~ Subpoenas shall be issued under the seal of the superintendent and shall be served in the same manner as ~~subpenas~~ subpoenas issued out of any court of this State.

Upon the failure of any person to obey a ~~subpena~~ subpoena as aforesaid, the superintendent may apply to the Superior Court for appropriate relief.

L.1942, c. 248, p. 674, s. 9. Amended by L.1979, c. 307, s. 1, eff. Jan. 17, 1980.

TITLE 5 AMUSEMENTS, PUBLIC EXHIBITIONS AND MEETINGS

5:2A-9. Investigations

a. The board may make or cause to be made such investigations as it shall deem proper in the administration of this act or the rules or regulations promulgated pursuant to the act, including but not limited to examination of the books, records, documents, papers or any financial records of any licensee or applicant for a license pursuant to this act.

b. Every licensee and every applicant for a license shall on demand exhibit to the board or to the commissioner all of the matters and things which the board is authorized and empowered to investigate, inspect or examine and shall facilitate as far as may be in their power to do any such investigation, examination or inspection, and they shall not in any way hinder or delay or cause the hindrance or delay of same in any manner whatsoever.

c. For the purpose of any investigation, examination or inspection, or any other proceeding authorized under this act, the board or the commissioner may examine, under oath, any and all persons whatsoever and compel by ~~subpena~~ subpoena the attendance of witnesses and the production of books, records, accounts, papers and documents of any person. The board may serve its process and notices in the manner provided for civil actions in accordance with the Rules of Court.

d. The fees of witnesses required to attend before the commissioner or other issuing authority shall be the same as those allowed to witnesses in the Superior Court.

e. If any person in any proceeding before the board refuses to take the oath or refuses to respond to a ~~subpena~~ subpoena by failing to appear or testify or produce or file any books, records, accounts, papers or documents when ordered to do so by the board, the Attorney General may file in the Superior Court a petition for an order of such court:

(1) Compelling the person to respond in accordance with the ~~subpena~~ subpoena issued to that person;

(2) Suspending the license of the person pending hearing and determination or until compliance with the ~~subpena~~ subpoena; or

(3) Imposing any other relief or sanction for contempt that may be necessary in accordance with the New Jersey Court Rules.

L. 1985, c. 83, s. 9.

5:5-54. Oaths and witnesses; ~~subpena~~ subpoena; misconduct, failure to attend or produce records

34. Each member of the commission and the executive director shall have power to administer oaths and examine witnesses, and shall have the power to issue ~~subpenas~~ subpoenas to compel the attendance of witnesses and the production of all necessary reports, books, papers, documents, correspondence and other evidence at any designated place of hearing. The ~~subpenas~~ subpoenas shall be authenticated by the seal of the commission, and any party to a proceeding before the commission may secure from it ~~subpenas~~ subpoenas without charge. Misconduct on the part of a person attending a hearing or the failure of a witness when duly ~~subpenaed~~ subpoenaed to attend, give testimony or produce any records, shall be punishable by the Superior Court in the county wherein the offense is committed in the same manner as such failure is punishable by that court in a case therein pending.

L.1940,c.17,s.34; amended 1953, c.6, s.8; 1974, c.181, s.6; 1991,c.91,s.184.

5:12-107 Conduct of hearings; rules of evidence; punishment of contempts.

107. Conduct of Hearings; Rules of Evidence; Punishment of Contempts. a. The commission shall promulgate regulations for the conduct of hearings it is authorized to conduct under subsection a. of section 63 of P.L.1977, c.110 (C.5:12-63), which regulations shall include the following:

(1) Unless the commission hears the matter directly, the chairman shall refer the matter to the Office of Administrative Law in accordance with P.L.1978, c.67 (C.52:14F-1 et al.); provided, however, that the chairman may, in his discretion, designate a member of the commission, or other qualified person other than an employee of the commission, to serve as hearing examiner in a particular matter;

(2) The proceedings at the hearing shall be recorded or transcribed;

(3) Oral evidence shall be taken only upon oath or affirmation;

(4) Each party to a hearing shall have the right to call and examine witnesses; to introduce exhibits relevant to the issues of the case, including the transcript of testimony at any investigative hearing conducted by or on behalf of the commission; to cross-examine opposing witnesses in any matters relevant to the issue of the case; to impeach any witness, regardless of which party called him to testify; and to offer rebuttal evidence;

(5) If an applicant, licensee, registrant or person who shall be qualified pursuant to this act is a party and if such party shall not testify in his own behalf, he may be called and examined as if under cross-examination;

(6) The hearing shall not be conducted according to rules relating to the admissibility of evidence in courts of law. Any relevant evidence may be admitted and shall be sufficient in itself to support a finding if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action; and

(7) The parties or their counsel may, by written stipulation, agree that certain specified evidence may be admitted, although such evidence may be otherwise subject to objection.

b. The commission may take official notice of any generally accepted information or technical or scientific matter in the field of gaming and of any other fact which may be judicially noticed by the courts of this State. The parties shall be informed of any information, matters or facts so noticed and shall be given a reasonable opportunity, on request, to refute such information, matters or facts by evidence or by written or oral presentation of authorities, the manner of such refutation to be determined by the commission. The commission may, in its discretion, before rendering its decision, permit the filing of amended or supplemental pleadings and shall notify all parties thereof and provide a reasonable opportunity for objections thereto.

c. If any person in proceedings before the commission or the division disobeys or resists any lawful order, refuses to respond to a ~~subpena~~ subpoena, refuses to take the oath or affirmation as a witness or thereafter refuses to be examined, or is guilty of misconduct at the hearing or so near the place thereof as to obstruct the proceeding, the person may be punished for contempt in accordance with the Rules of Court if the commission or division certifies the facts underlying the contumacious behavior to the Superior Court. Thereafter, the courts shall have jurisdiction in the matter, and the same proceeding shall be had, the same penalties may be imposed, and the person charged may purge himself of the contempt in the same way as in the case of a person who has committed contempt in the trial of a civil action before the Superior Court.

d. (Deleted by amendment, P.L.2011, c.19)

e. The division shall promulgate rules governing the conduct of hearings and other procedures as are necessary for it to fulfill its duties and exercise its powers consistent with section 76 of P.L.1977, c.110 (C.5:12-76).

f. The commission and division shall have the power and authority to issue subpoenas and to compel the attendance of witnesses at any place within this State, to administer oaths and to require testimony under oath before the commission or division in the course of any investigation or hearing conducted under this act. The commission and division may appoint hearing examiners, to whom may be delegated the power and authority to administer oaths, issue subpoenas, and require testimony under oath.

g. The commission and division shall have the authority to order any person to answer a question or questions or produce evidence of any kind and confer immunity as provided in this section. If, in the course of any investigation or hearing conducted under this act, a person refuses to answer a question or produce evidence on the ground that he will be exposed to

criminal prosecution thereby, then in addition to any other remedies or sanctions provided for by this act, the division or the commission with the written approval of the Attorney General, may issue an order to answer or to produce evidence with immunity.

If, upon issuance of such an order, the person complies therewith, he shall be immune from having such responsive answer given by him or such responsive evidence produced by him, or evidence derived therefrom, used to expose him to criminal prosecution, except that such person may nevertheless be prosecuted for any perjury committed in such answer or in producing such evidence, or for contempt for failing to give an answer or produce evidence in accordance with the order of the commission or the division; provided, however, that no period of incarceration for contempt shall exceed 18 months in duration pursuant to this section. Any such answer given or evidence produced shall be admissible against him upon any criminal investigation, proceeding or trial against him for such perjury; upon any investigation, proceeding or trial against him for such contempt; or in any manner consonant with State and constitutional provisions.

h. Any licensee, applicant for a license or a registrant who is aggrieved by a final decision by the division shall have the right of appeal to the commission. Notwithstanding the foregoing, no decision by the division shall constitute a final agency action for purposes of establishing jurisdiction on appeal in the New Jersey Superior Court.

i. All appeals from final decisions of the division shall be heard by the commission in accordance with subsection b. of section 63 of P.L.1977, c.110 (C.5:12-63), which procedure may include the opportunity for the matter to be heard as a contested case in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Final orders of the commission shall constitute final agency action for purposes of establishing jurisdiction on appeal in the New Jersey Superior Court.

L.1977, c.110, s.107; amended 1979, c.282, s.36; 1987, c.354, s.19; 1993, c.292, s.25; 2011, c.19, s.76.

5:12-108. Proceedings against licensees

a. Any proceeding against a licensee or registrant shall be brought on by written complaint, which shall include a statement setting forth in ordinary and concise language the charges and the acts or omissions supporting such charges.

b. Upon filing of the complaint the commission shall serve a copy upon the licensee or registrant either personally or by certified mail to his address on file with the commission.

c. Within 15 days after service upon him of the complaint, the licensee or registrant may file with the commission a notice of defense, in which he may:

(1) Request a hearing;

(2) Admit the accusation in whole or in part;

(3) Present new matters or explanations by way of defense; or

(4) State any legal objections to the complaint.

Within the time specified, the licensee or registrant may file one or more notices of defense upon any or all of the above grounds.

d. The licensee or registrant shall be entitled to a hearing on the merits if he files the required notice of defense within the time allowed by subsection c. of this section, and any such notice shall be deemed a specific denial of all parts of the complaint not expressly admitted. Failure to timely file the required notice of defense or to appear at the hearing shall constitute an admission of all matters and facts contained in the complaint and a waiver of the licensee's or registrant's rights to a hearing, but the commission, in its discretion, may nevertheless order a hearing. All affirmative defenses shall be specifically stated, and unless objection is taken as provided in paragraph (4) of subsection c. of this section, all objections to the form of the complaint shall be deemed waived.

e. The commission shall determine the time and place of the hearing as soon as is reasonably practical after receiving the licensee's or registrant's notice of defense. The commission shall deliver or send by certified mail a notice to all parties at least 10 days prior to the hearing. Unless the licensee or registrant consents, the hearing shall not be held prior to the expiration time within which the licensee or registrant is entitled to file the notice of defense.

f. Prior to a hearing before the commission, and during a hearing upon reasonable cause shown, the commission shall issue ~~subpenas~~ subpoenas and ~~subpenas~~ subpoenas duces tecum at the request of a licensee, a registrant, or the division.

L.1977, c. 110, s. 108, eff. June 2, 1977. Amended by L.1979, c. 282, s. 37, eff. Jan. 9, 1980; L.1981, c. 503, s. 17, eff. Feb. 15, 1982.

TITLE 10 CIVIL RIGHTS

10:5-14.3. Delegation of powers by Attorney General; review of findings and conclusions

Upon a finding that the public interest may be better served thereby, the Attorney General may delegate to such county or municipal office of civil rights the power to investigate complaints and conduct conciliation conferences, in accordance with the provisions of section 13 of P.L.1945, c. 169 (C. 10:5-14), and to proceed in a summary manner in accordance with the provisions of section 6 of P.L.1966, c. 17 (C. 10:5-14.1). In addition, the Attorney General may delegate to such county or municipal office of civil rights the power to conduct hearings and in connection therewith, the power to ~~subpena~~ subpoena witnesses, administer oaths, take testimony and conduct discovery procedures including the taking of interrogatories and oral depositions. The findings and conclusions of a county or municipal office resulting from an exercise of the foregoing powers shall not constitute a final administrative decision, but shall be submitted to the Director of the Division on Civil Rights who may rely and act thereupon in

accordance with the provisions of section 16 of P.L.1945, c. 169 (C. 10:5-17). The Attorney General shall establish rules of practice to govern, expedite and effectuate the utilization of the foregoing powers by such county or municipal office.

L.1977, c. 121, s. 2, eff. June 6, 1977. Amended by L.1980, c. 87, s. 2, eff. Aug. 21, 1980.

TITLE 11A CIVIL SERVICE

11A:2-7 ~~Subpena~~ Subpoena; oaths.

11A:2-7. ~~Subpena~~ Subpoena; oaths. The commission may ~~subpena subpoena~~ and require the attendance of witnesses in this State and the production of evidence or documents relevant to any proceeding under this title. Those persons may also administer oaths and take testimony. ~~Subpena~~ Subpoena issued under this section shall be enforceable by order of the Superior Court.

Amended 2008, c.29, s.7.

TITLE 13 CONSERVATION AND DEVELOPMENT--PARKS AND RESERVATIONS

13:1E-129. Investigative interrogatory

4. a. Whenever the Attorney General determines that there exists a reasonable suspicion that any person may have information or be in possession, custody, or control of any documentary materials relevant to an investigation of an applicant, permittee or licensee conducted pursuant to this act, he may issue in writing, and cause to be served upon that person an investigative interrogatory requiring that person to answer questions under oath and produce material for examination.

b. Each interrogatory shall:

- (1) Identify the licensee, permittee or applicant who is the subject of the investigation;
- (2) Advise the person that he has the right to discuss the interrogatory with legal counsel prior to returning it to the Attorney General or prior to making material available, as provided in subsection f. of this section, and that he has the right to file in Superior Court a petition to modify or set aside the interrogatory, as provided in subsection j. of this section;
- (3) Describe the class or classes of documentary material to be produced thereunder with sufficient particularity as to permit the material to be reasonably identified;
- (4) Prescribe a return date, which date shall provide a reasonable period of time within which answers may be made and material so demanded may be assembled and made available for inspection and copying or reproduction, as provided in subsection f. of this section.

c. No interrogatory shall:

(1) Contain any requirement which would be held to be unreasonable if contained in a ~~subpena~~ subpoena duces tecum issued in aid of a grand jury investigation; or

(2) Require the production of any documentary evidence which would be otherwise privileged from disclosure if demanded by a ~~subpena~~ subpoena duces tecum issued in aid of a grand jury investigation.

d. Service of any interrogatory filed under this section may be made upon any person by:

(1) Delivering a duly executed copy thereof to the person or any partner, executive officer, managing agent, employee or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of the person; or

(2) Delivering a duly executed copy thereof to the principal office or place of business of the person to be served; or

(3) Depositing a copy in the United States mail, by registered or certified mail duly addressed to the person at his principal office or place of business.

e. A verified return by the individual serving any interrogatory, setting forth the manner of service, shall be prima facie proof of service. In the case of service by registered or certified mail, the return shall be accompanied by the return post office receipt of delivery of the interrogatory.

f. Any person upon whom any interrogatory issued under this section has been duly served which requires the production of materials shall make the material available for inspection and copying or reproduction to the Attorney General at the principal place of business of that person in the State of New Jersey or at any other place as the Attorney General and the person thereafter may agree and prescribe in writing, on the return date specified in the interrogatory or on a later date as the Attorney General may prescribe in writing. Upon written agreement between the person and the Attorney General, copies may be substituted for all or any part of the original materials. The Attorney General may cause the preparation of any copies of documentary material as may be required for official use by the Attorney General.

No material produced pursuant to this section shall be available for examination, without the consent of the person who produced the material, by an individual other than the Attorney General or any person retained by the Attorney General in connection with the enforcement of this act. Under reasonable terms and conditions as the Attorney General shall prescribe, documentary material while in his possession shall be available for examination by the person who produced the material or any of his duly authorized representatives.

In any investigation conducted pursuant to this act, the Attorney General may present before the department, court or grand jury any documentary material in his possession pursuant to this section, subject to any protective order deemed proper by the Superior Court.

g. Upon completion of:

(1) The review and investigation for which any documentary material was produced under this section, and

(2) Any case or proceeding arising from the investigation, the Attorney General shall return to the person who produced the material all the material, other than copies thereof made by the Attorney General pursuant to this section, which has not passed into the control of the department or any court or grand jury through the introduction thereof into the record of the case or proceeding.

h. When any documentary material has been produced by any person under this section for use in an investigation, and no case or proceeding arising therefrom has been instituted within two years after completion of the examination and analysis of all evidence assembled in the course of the investigation, the person shall be entitled, upon written demand made upon the Attorney General, to the return of all documentary material, other than copies thereof made pursuant to this section so produced by him.

i. Whenever any person fails to comply with any investigative interrogatory duly served upon him under this section, or whenever satisfactory copying or reproduction of any material cannot be done and he refuses to surrender the material, the Attorney General may file in the Superior Court a petition for an order of the court for the enforcement of this section.

j. At any time before the return date specified in the interrogatory, the person served with the interrogatory may file in the Superior Court a petition for an order modifying or setting aside the interrogatory. The time allowed for compliance with the interrogatory shall not run during the pendency of this petition. The petition shall specify each ground upon which the petition relies in seeking relief, and may be based upon any failure of the interrogatory to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the petitioner. In this proceeding, the Attorney General shall establish the existence of an investigation pursuant to this act and the nature and subject matter of the investigation.

L.1983,c.392,s.4; amended 1991,c.269,s.4.

13:1E-130. ~~Subpena~~ Subpoena power

5. a. Whenever the Attorney General determines that there exists a reasonable suspicion that any person may have information or knowledge relevant to an investigation conducted pursuant to this act, he may issue in writing and cause to be served upon that person a ~~subpena~~ subpoena to appear and be examined under oath before the Attorney General.

b. The ~~subpena~~ subpoena shall:

(1) Identify the licensee, permittee or applicant who is the subject of the investigation;

(2) Advise that person that he may have an attorney present when he appears and testifies or otherwise responds to the ~~subpena~~ subpoena, that he has a right, at any time before the return date of the ~~subpena~~ subpoena, to file in Superior Court a petition to modify or set aside the ~~subpena~~ subpoena, as provided in subsection f. of this section;

(3) Prescribe a date and time at which that person must appear to testify, under oath, provided that this date shall not be less than seven days from the date of service of the ~~subpena~~ subpoena.

c. Except as otherwise provided in this section, no information derived pursuant to the ~~subpena~~ subpoena shall be disclosed by the Attorney General or the department without the consent of the person testifying.

In any investigation conducted pursuant to this act, the Attorney General may present before the department, court or grand jury any information disclosed pursuant to the ~~subpena~~ subpoena, subject to any protective order deemed proper by the Superior Court.

d. Service of a ~~subpena~~ subpoena pursuant to this section shall be by any of those methods specified in the New Jersey Court Rules for service of summons and complaint in a civil action.

e. Whenever any person fails to comply with any ~~subpena~~ subpoena duly served upon him under this section, or whenever satisfactory copying or reproduction of any material cannot be done and he refuses to surrender the material, the Attorney General may file in the Superior Court a petition for an order of the court for the enforcement of the ~~subpena~~ subpoena.

f. At any time before the return date specified in the ~~subpena~~ subpoena, the person who has been served with the ~~subpena~~ subpoena may file in the Superior Court a petition for an order modifying or setting aside the ~~subpena~~ subpoena. The time allowed for compliance with the ~~subpena~~ subpoena shall not run during the pendency of this petition. The petition shall specify each ground upon which the petitioner relies in seeking relief, and may be based upon any failure of the ~~subpena~~ subpoena to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the petitioner. In this proceeding, the Attorney General shall establish the existence of an investigation pursuant to this act and the nature and subject matter of the investigation.

L.1983,c.392,s.5; amended 1991,c.269,s.5.

Any public officer or employee who shall disclose to any person, other than the Attorney General or a person retained by the Attorney General as herein provided, the name of any person who receives an investigative interrogatory or a ~~subpena~~ subpoena or any information obtained pursuant thereto, except in proceedings involving an alleged violation of this act and except as so directed by the Attorney General, shall be guilty of a crime of the fourth degree.

L.1983, c. 392, 6.

13:1E-132. Grant of immunity after disclosure of evidence; failure to obey ~~subpena~~; penalties

a. If any person in attendance pursuant to a ~~subpena~~ subpoena or interrogatory issued pursuant to this act refuses to answer personally a question or produce evidence of any kind, or make the required answers on the ground that he may be incriminated thereby, and if the Attorney General, in a writing directed to that person, orders that he answer the question or produce the evidence, the person shall comply with the order. After complying therewith and if, but for this section, he would have been privileged to withhold the answer given or the evidence produced, that answer, testimony or evidence or any evidence directly or indirectly derived therefrom, may not be used against him in any prosecution for a crime or offense concerning which he gave answer or produced evidence; provided that the answer, testimony or evidence is responsive to the question propounded. That person may, however, be prosecuted or subject to penalty or forfeiture for any perjury, false swearing or contempt committed in answering, or failing to answer, or in producing evidence or failing to produce evidence or failing to do so in accordance with the order.

b. If any person fails to obey the command of the ~~subpena~~ subpoena after being ordered to do so by a court of competent jurisdiction, he shall be guilty of a crime of the fourth degree. In the alternative, if a person shall fail to obey the command of a ~~subpena~~ subpoena after being ordered to do so by a court of competent jurisdiction, the Attorney General may apply to that court to adjudge the person in contempt and to commit him to jail until such time as he purges himself of contempt by responsively answering, testifying or producing evidence as ordered.

L.1983, c. 392, s. 7.

13:1L-22. Oaths; witnesses; ~~subpena~~ subpoena

For the purpose of this amendatory and supplementary act, the department may administer oaths, examine witnesses under oath, and issue ~~subpena~~ subpoena for the production of written material or requiring personal attendance before the department.

L.1983, c. 324, s. 22, eff. Sept. 1, 1983.

17:9A-272. Powers of commissioner

A. While in possession of the business and property of a bank, the commissioner may, in the name of the bank

(1) Continue the business of the bank in all its aspects, including, in the case of a qualified bank, the exercise of its fiduciary and agency powers; except that the commissioner may not

(a) Make loans other than loans for which there are outstanding commitments and loans wholly or partly renewing obligations to the bank outstanding when possession is taken;

(b) Invest the funds of the bank or of any fiduciary account other than in obligations of the United States or of this State, or in obligations unconditionally guaranteed both as to principal and interest by the United States or this State;

(c) Permit withdrawals from or charges against the account of a depositor, except to the extent that deposits are made after the commissioner takes possession; or

(d) Pay claims of creditors, other than depositors, arising prior to the taking of possession, except as provided in sections two hundred eighty-four and two hundred eighty-six;

(2) Demand, sue for, collect, receive, and take into his possession all the bank's real and personal property, including the power to sue for and recover any property transferred in fraud of the bank's creditors;

(3) Compound and settle with any of the bank's debtors or creditors, or with persons having possession of its property, or in any way responsible to the bank, and extend the time for payment of any obligation owing to the bank, upon such terms and conditions as he shall deem just and beneficial to the bank;

(4) Make or allow proper set-offs;

(5) Sell, assign, transfer, or convey all or any part of the real and personal property of the bank;

(6) Prosecute or defend any action or proceeding to which the bank is a party;

(7) Execute, acknowledge, and deliver any deed, assignment, release, agreement, warrant to cancel a mortgage or other lien, or other instrument necessary or appropriate to effect any sale of real or personal property, or to compromise or compound any claim, or to restore to any person any property deposited or transferred as security for the payment of a debt or the performance of an obligation, upon the payment of the debt or the performance of the obligation, or which is necessary or appropriate to effect any other power which the commissioner is authorized to exercise in respect to the business and property of such bank. Any deed or other instrument so executed and delivered shall be valid and effectual for all purposes as though executed and delivered by the officers of the bank by authority of its board of directors;

(8) Do all acts necessary or appropriate to conserve the property and business of the bank.

B. The commissioner shall have the power, while in possession of the property and business of a bank, to ~~subpena~~ subpoena any person to testify concerning the property and business of the bank, as in the manner provided in sections two hundred sixty and two hundred sixty-one. Any person so ~~subpenaed~~ subpoenaed shall be subject to the provisions of sections two hundred sixty-two and two hundred sixty-three.

C. While in possession of the business and property of a bank pursuant to Section 269, subsection A of this act, the commissioner may, upon application to the Superior Court, Chancery Division, and without notice to or approval of the stockholders of said bank, enter into a plan or agreement in the name of said bank whereby all or any part of said bank's liabilities and fiduciary relationships would be assumed by one or more banking institutions and all or any part of said bank's assets and business would be purchased by one or more banking institutions. To facilitate the consummation of such plan or agreement, the commissioner may, in the name of said bank, borrow money from the Federal Deposit Insurance Corporation and pledge or assign all or any part of said bank's assets as security for the money so borrowed; sell all or any part of said bank's assets, real or personal, to one or more banking institutions or to the Federal Deposit Insurance Corporation; and transfer to another banking institution all or any part of the money borrowed from the Federal Deposit Insurance Corporation in consideration of such banking institution's agreement to assume and pay the liabilities and fiduciary relationships of the bank in whose name the commissioner is acting.

D. While in possession of the property and business of a bank, the commissioner may offer to the Federal Deposit Insurance Corporation, or its successor, appointment as receiver of such bank. In the event the Federal Deposit Insurance Corporation, or its successor, accepts such appointment, it shall have and be authorized to exercise all rights, powers and privileges now possessed or hereafter granted to the commissioner by this article; it shall have all rights, powers and privileges now possessed or hereafter granted to a receiver by the laws of this State; and it shall be under the exclusive jurisdiction of the Superior Court.

L.1948,c.67,s.272; amended 1953, c.17,s.45; 1976,c.6,s.3.

17:10B-3. Investigations, examinations by commissioner

3. a. The commissioner may make such investigations and examinations upon reasonable suspicion as he deems necessary to determine whether a person has violated or is about to violate any provision of this act or any order, rule or regulation issued hereunder. For such purposes, he may investigate or examine the books, accounts, records, papers and other documents or matters of the person. He shall have the power to compel by ~~subpena~~ subpoena the attendance of witnesses and the production of all relevant books, accounts, records, papers and other documents or matters relative to an examination or investigation and to administer oaths and affirmations to any person. The costs of each examination shall be borne by the person at the department's regular per diem rate for examinations of licensees. Examinations conducted under the provisions of this act shall be confidential except as required in the administration, enforcement and prosecution of violations under this act, actions brought by the Attorney

General, or pursuant to a court order.

b. If any person refuses to obey a ~~subpena~~ subpoena, or to give testimony or to produce evidence, the commissioner may apply ex parte to any court having jurisdiction over that person for an order compelling the appearance of the witness before the commissioner to give testimony or to produce evidence as required thereby, or both.

L.1992,c.66,s.3.

17:12B-283. Examination; report

a. The commissioner shall have the right to examine any savings and loan holding company which controls a state association, the cost of which examination shall be assessed against and paid by the savings and loan holding company in an amount to be set by rule or regulation of the commissioner.

b. The examination authorized by this section shall be conducted jointly, concurrently or in lieu of examinations made by a federal or other state regulatory agency. The commissioner shall use, to the extent deemed feasible, filings and reports made by the savings and loan holding company which controls a state association to federal or other state regulatory authorities.

c. A copy of any examination report prepared by the department may be given to any federal or other state regulatory authority pursuant to a written agreement providing for the exchange of reports of examinations between the department and the federal or other state regulatory authority.

d. Except as provided in subsection c. of this section, every report and copy of a report of examination of a savings and loan holding company made by or under the supervision of the commissioner and every report and copy of a report of examination of a savings and loan holding company which proposes to control or controls a state association made by or under the supervision of any federal or other state regulatory authority shall be confidential, and shall not be made public by any officer, director or employee of the savings and loan holding company or the department. These reports and reports of examination shall not be subject to ~~subpena~~ subpoena or to admission into evidence in any action or proceeding in any court, except pursuant to an order of the court made upon notice to the commissioner and after affording the commissioner an opportunity to advise the court of reasons for excluding from evidence the report or any portion thereof. The court shall order the issuance of a ~~subpena~~ subpoena for the production or admission into evidence of any report or portion thereof, only if it is satisfied that: (1) it is material and relevant to the issues in the proceedings; and (2) the ends of justice and public advantage will be served thereby. This subsection shall not apply to any action or proceeding instituted by the commissioner or Attorney General pursuant to any law of this State.

L. 1987, c. 225, s. 3.

17:13-112. Supervision and examination by commissioner; exhibition of papers and documents; ~~subpena~~ subpoena; perjury

a. Every credit union shall be subject to the supervision and examination of the commissioner. In lieu of making an examination of a credit union, the commissioner may accept the examination of a certified public accountant who has examined the records of the credit union and who files an opinion of his examination with the commissioner. If an examiner deems it advisable, he may verify the liabilities of the credit union to its members by an inspection and verification of their accounts. The commissioner shall promptly communicate the results of each examination to the president of the credit union examined, who shall present the report to the board at the next regular meeting or a special meeting if the commissioner so directs. The action taken by the board shall be communicated by the president to the commissioner within five days.

b. The officers, directors and employees of the credit union under examination shall exhibit its books, papers, records, documents, and securities to the commissioner or his representative and shall act to facilitate the examination. The commissioner or his representative may administer an oath to any person whose testimony is required on any examination and may compel by ~~subpena~~ subpoena the appearance of any person for the purpose of examination or for the production of books, papers, records, documents and securities. The ~~subpena~~ subpoena may be served by any police officer or constable of the municipality in which the person resides. If any person fails to obey the ~~subpena~~ subpoena, give testimony, answer questions or produce any books, papers, records, documents, securities or other things which may be required by the commissioner, the Superior Court may compel the person to do so.

c. A person who shall willfully testify falsely to a material matter upon an oath administered by the commissioner or his representative upon an investigation or inquiry, or in regard to a report made by the commissioner, shall be guilty of perjury.

L.1984, c. 171, s. 34, eff. Oct. 31, 1984.

17:14A-71. Examination of safe deposit companies by commissioner; examination of witnesses

The commissioner, a deputy commissioner, and every examiner assigned by the commissioner or by a deputy commissioner to examine the affairs of a company may administer an oath to any person whose testimony is required for the purposes of the examination. The commissioner or deputy commissioner may compel the appearance of any person for the purposes of examination, by ~~subpena~~ subpoena ad testificandum and the production of books, papers, documents or records by ~~subpena~~ subpoena duces tecum.

L.1983, c. 566, s. 17:14A-71.

17:14A-71.2. Examinations confidential; evidence; ~~subpenas~~ subpoenas

Every report and copy of a report of examination of a safe deposit company made by or under the supervision of the commissioner shall not be subject to ~~subpena~~ subpoena or to admission into evidence in any court, except pursuant to an order of the court made upon notice of the commissioner affording the commissioner an opportunity to advise the court of reasons for excluding the report or any portion thereof from evidence. The court shall order the issuance of a ~~subpena~~ subpoena for the production of or the admission into evidence of a report or portion thereof only after it is satisfied that it is material and relevant to the issues in the proceedings, and the ends of justice and the public interest will be served thereby. This section shall not apply to any action or proceeding instituted by the commissioner or the Attorney General pursuant to any law of this State.

L.1983, c. 566, s. 17:14A-71.2.

17:16F-8. Investigations; power of commissioner; ~~subpenas~~ subpoenas and orders to testify; enforcement

The commissioner of banking shall have the power to make such investigations into any matter pertaining to this act as he shall deem necessary, including the power to hold hearings, issue ~~subpenas~~ subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence before him. In case of a failure of any person to comply with any ~~subpena~~ subpoena issued by the commissioner or to testify to any matter concerning which he may be lawfully interrogated, the Superior Court, on application of the commissioner, may issue an order requiring the attendance of such person and the giving of testimony or production of evidence. Any person failing to obey the court's order may be punished for contempt.

L.1977, c. 1, s. 8.

17:16K-4. Government agencies; obtaining information; necessity of search warrant or ~~subpena~~

No government agency, except as provided for in subsections e. and f. of section 3 of this act, may obtain information from an electronic fund transfer account without first obtaining a search warrant or ~~subpena~~ subpoena.

L.1983, c. 466, s. 4, eff. Jan. 12, 1984.

17:23-14. Privileged nature of furnished information

Information furnished pursuant to this act shall be privileged and not a part of any public record. Except as may be required by law other than P.L.1963, c. 73 (C. 47:1A-1 et seq.), an authorized governmental agency or insurer or its authorized agent, which receives any information furnished pursuant to this act, shall not release that information to public inspection. The information shall not be subject to ~~subpena~~ subpoena duces tecum in a civil or criminal proceeding unless, after reasonable notice to the insurer or its authorized agent and the

authorized governmental agency which has an interest in the information and a hearing, the court determines that the public interest and an ongoing investigation by the authorized governmental agency, insurer or its authorized agent will not be jeopardized by obedience to the ~~subp~~ena subpoena.

L.1983, c. 214, s. 7, eff. June 15, 1983.

17:23A-13. Disclosure limitations and conditions

Disclosure limitations and conditions. An insurance institution, agent or insurance-support organization shall not disclose any personal or privileged information about an individual collected or received in connection with an insurance transaction unless the disclosure is:

a. With the written authorization of the individual, provided:

(1) If the authorization is submitted by another insurance institution, agent or insurance-support organization, the authorization meets the requirements of section 6 of this act, or

(2) If the authorization is submitted by a person other than an insurance institution, agent or insurance-support organization, the authorization is:

(a) Dated,

(b) Signed by the individual, and

(c) Obtained one year or less prior to the date a disclosure is sought pursuant to this subsection;

b. To a person other than an insurance institution, agent or insurance-support organization, provided the disclosure is reasonably necessary:

(1) To enable the person to perform a business, professional or insurance function for the disclosing insurance institution, agent or insurance-support organization, and the person agrees not to disclose the information further without the individual's written authorization unless the further disclosure:

(a) Would otherwise be permitted by this section if made by an insurance institution, agent or insurance-support organization, or

(b) Is reasonably necessary for the person to perform its function for the disclosing insurance institution, agent or insurance-support organization; or

(2) To enable the person to provide information to the disclosing insurance institution, agent or insurance-support organization for the purpose of:

(a) Determining an individual's eligibility for an insurance benefit or payment, or

(b) Detecting or preventing criminal activity, fraud, material misrepresentation or material nondisclosure in connection with an insurance transaction;

c. To an insurance institution, agent, insurance-support organization or self-insurer, if the information disclosed is limited to that which is reasonably necessary:

(1) To detect or prevent criminal activity, fraud, material misrepresentation or material nondisclosure in connection with insurance transactions, or

(2) For either the disclosing or receiving insurance institution, agent or insurance-support organization to perform its functions in connection with an insurance transaction involving the individual;

d. To a medical-care institution or medical professional for the purpose of:

(1) Verifying insurance coverage or benefits;

(2) Informing an individual of a medical problem of which the individual may not be aware; or

(3) Conducting an operations or services audit, provided only that information is disclosed as is reasonably necessary to accomplish the foregoing purposes; or

e. To an insurance regulatory authority; or

f. To a law enforcement or other governmental authority: (1) To protect the interests of the insurance institution, agent or insurance-support organization in preventing or prosecuting the perpetration of fraud upon it, or

(2) If the insurance institution, agent or insurance-support organization reasonably believes that illegal activities have been conducted by the individual;

g. Otherwise permitted or required by law;

h. In response to a facially valid administrative or judicial order, including a search warrant or ~~subpena~~ subpoena;

i. Made for the purpose of conducting actuarial or research studies, provided:

(1) No individual may be identified in any actuarial or research report,

(2) Materials allowing the individual to be identified are returned or destroyed as soon as they are no longer needed, and

(3) The actuarial or research organization agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution,

agent or insurance-support organization;

j. To a party or a representative of a party to a proposed or consummated sale, transfer, merger or consolidation of all or part of the business of the insurance institution, agent or insurance-support organization, except that:

(1) Prior to the consummation of the sale, transfer, merger or consolidation only such information is disclosed as is reasonably necessary to enable the recipient to make business decisions about the purchase, transfer, merger or consolidation, and

(2) The recipient agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution, agent or insurance-support organization;

k. To a person whose only use of such information will be in connection with the marketing of a product or service, if:

(1) No medical-record information, privileged information, or personal information relating to an individual's character, personal habits, mode of living or general reputation is disclosed, and no classification derived from that information is disclosed,

(2) The individual has been given an opportunity to indicate that he does not want personal information disclosed for marketing purposes and has given no indication that he does not want the information disclosed, and

(3) The person receiving the information agrees not to use it except in connection with the marketing of a product or service;

l. To an affiliate whose only use of the information will be in connection with an audit of the insurance institution or agent or the marketing of an insurance product or service, if the affiliate agrees not to disclose the information for any other purpose or to unaffiliated persons;

m. By a consumer reporting agency, if the disclosure is to a person other than an insurance institution or agent;

n. To a group policyholder for the purpose of reporting claims experience or conducting an audit of the insurance institution's or agent's operations or services, if the information disclosed is reasonably necessary for the recipient to conduct the review or audit;

o. To a professional peer review organization for the purpose of reviewing the services or conduct of a medical-care institution or medical professional;

p. To a governmental authority for the purpose of determining the individual's eligibility for health benefits for which the governmental authority may be liable;

q. To a certificateholder or policyholder for the purpose of providing information regarding the

status of an insurance transaction; or

r. To a lienholder, mortgagee, assignee, lessor or other person shown on the records of an insurance institution or agent as having a legal or beneficial interest in a policy of insurance, provided:

(1) No medical-record information is disclosed unless the disclosure would otherwise be permitted by this section of this act; and

(2) The information disclosed is limited to that reasonably necessary to permit the person to protect its interests in the policy.

L. 1985, c. 179, s. 13.

17:23A-15. Hearings, witnesses, appearances, production of books and service of process

Hearings, witnesses, appearances, production of books and service of process.

a. Whenever the commissioner has reason to believe that an insurance institution, agent or insurance-support organization has been or is engaged in conduct in this State which violates this act, or if the commissioner believes that an insurance-support organization has been or is engaged in conduct outside this State which has an effect on a person residing in this State and which violates this act, the commissioner shall issue and serve upon the insurance institution, agent or insurance-support organization a statement of charges and notice of hearing to be held at a time and place fixed in the notice. The date for the hearing shall be not less than 30 days after the date of service.

b. At the time and place fixed for the hearing the insurance institution, agent or insurance-support organization charged shall have an opportunity to answer the charges against it and present evidence on its behalf. Upon good cause shown, the commissioner shall permit any adversely affected person to intervene, appear and be heard at the hearing by counsel or in person.

c. At any hearing conducted pursuant to this section the commissioner may administer oaths, examine and cross-examine witnesses and receive oral and documentary evidence. The commissioner shall have the power to ~~subpena~~ subpoena witnesses, compel their attendance and require the production of books, papers, records, correspondence and other documents which are relevant to the hearing. A stenographic record of the hearing shall be made upon the request of any party or at the discretion of the commissioner. If no stenographic record is made and if judicial review is sought, the commissioner shall prepare a statement of the evidence for use on review. Hearings conducted under this section shall be governed by the same rules of evidence and procedure applicable to administrative proceedings conducted pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.).

d. Statements of charges, notices, orders and other process of the commissioner under this act may be served by anyone duly authorized to act on behalf of the commissioner. Service of

process may be completed in the manner provided by law for service of process in civil actions or by registered mail. A copy of the statement of charges, notice, order or other process shall be provided to the person or persons whose rights under this act have been allegedly violated. A verified return setting forth the manner of service, or return postcard receipt in the case of registered mail, shall be sufficient proof of service.

L. 1985, c. 179, s. 15.

17:33A-10 ~~Subpena~~ Subpoena powers; violations by persons licensed by State.

10. a. If the bureau has reason to believe that a person has engaged in, or is engaging in, an act or practice which violates this act, or any other relevant statute or regulation, the commissioner or his designee, after consulting with the Insurance Fraud Prosecutor or his designee, may administer oaths and affirmations, request or compel the attendance of witnesses or the production of documents. The commissioner, after consulting with the Insurance Fraud Prosecutor or his designee, may issue, or designate another to issue, ~~subpenas~~ subpoenas to compel the attendance of witnesses and the production of books, records, accounts, papers and documents. Witnesses who are not licensees of the Department of Banking and Insurance shall be entitled to receive the same fees and mileage as persons summoned to testify in the courts of the State.

If a person ~~subpenaed~~ subpoenaed pursuant to this section shall neglect or refuse to obey the command of the ~~subpena~~ subpoena, a judge of the Superior Court may, on proof by affidavit of service of the ~~subpena~~ subpoena, of payment or tender of the fees required and of refusal or neglect by the person to obey the command of the ~~subpena~~ subpoena, issue a warrant for the arrest of said person to bring him before the judge, who is authorized to proceed against the person as for a contempt of court.

b. If matter that the bureau or Office of the Insurance Fraud Prosecutor seeks to obtain by request is located outside the State, the person so required may make it available to the bureau or office, as the case may be, or its representative to examine the matter at the place where it is located. The bureau or office may designate representatives, including officials of the state in which the matter is located, to inspect the matter on its behalf, and it may respond to similar requests from officials of other states.

c. If (1) a practitioner, (2) an owner, administrator or employee of any hospital, (3) an insurance company, agent, broker, solicitor or adjuster, or (4) any other person licensed by a licensing authority of this State, or an agent, representative or employee of any of them is found to have violated any provision of this act, the commissioner or the Attorney General shall notify the appropriate licensing authority of the violation so that the licensing authority may take appropriate administrative action. The licensing authority shall report quarterly to the commissioner through the Bureau of Fraud Deterrence about the status of all pending referrals.

L.1983,c .320, s.10; amended 1997, c.151, s.6; 2010, c.32, s.5.

17:33A-11. Handling of documents, records of investigations

11. Papers, documents, reports, or evidence relative to the subject of an investigation under this act shall not be subject to public inspection except as specifically provided in this act. The commissioner shall not detain ~~subpenaed~~ subpoenaed records after an investigation is closed or, if a claim for a civil penalty is filed by the commissioner pursuant to section 5 or subsection d. of section 7, upon final disposition of the claim by a court of competent jurisdiction, whichever shall be the later date. ~~Subpena~~ Subpoena records shall be returned to the persons from whom they were obtained. The commissioner may, in his discretion, make relevant papers, documents, reports, or evidence available to the Attorney General, an appropriate licensing authority, law enforcement agencies, an insurance company or insurance claimant injured by a violation of this act, consistent with the purposes of this act and under such conditions as he deems appropriate. Such papers, documents, reports, or evidence shall not be subject to ~~subpena~~ subpoena, unless the commissioner consents, or until, after notice to the commissioner and a hearing, a court of competent jurisdiction determines that the commissioner would not be unnecessarily hindered by such ~~subpena~~ subpoena. Division investigators and insurance company fraud investigators shall not be subject to ~~subpena~~ subpoena in civil actions by any court of this State to testify concerning any matter of which they have knowledge pursuant to a pending insurance fraud investigation by the division, or a pending claim for civil penalties initiated by the commissioner.

L.1983,c.320,s.11; amended 1997, c.151, s.7.

TITLE 18A EDUCATION

18A:73-43.2. Confidentiality; exceptions

Library records which contain the names or other personally identifying details regarding the users of libraries are confidential and shall not be disclosed except in the following circumstances:

- a. The records are necessary for the proper operation of the library;
- b. Disclosure is requested by the user; or
- c. Disclosure is required pursuant to a ~~subpena~~ subpoena issued by a court or court order.

L. 1985, c. 172, s. 2, eff. May 31, 1985.

TITLE 19 ELECTIONS

19:44A-6 Appointment of officers, other employees; duties of ELEC.

6. a. The commission shall appoint a full-time executive director, legal counsel and hearing officers, all of whom shall serve at the pleasure of the commission and shall not have tenure by reason of the provisions of chapter 16 of Title 38 of the Revised Statutes. The commission shall also appoint such other employees as are necessary to carry out the purposes of this act, which employees shall be in the classified service of the civil service and shall be appointed in accordance with and shall be subject to the provisions of Title 11, Civil Service.

b. It shall be the duty of the commission to enforce the provisions of this act, to conduct hearings with regard to possible violations and to impose penalties; and for the effectual carrying out of its enforcement responsibilities the commission shall have the authority to initiate a civil action in any court of competent jurisdiction for the purpose of enforcing compliance with the provisions of this act or enjoining violations thereof or recovering any penalty prescribed by this act. The commission shall promulgate such regulations and official forms and perform such duties as are necessary to implement the provisions of this act. Without limiting the generality of the foregoing, the commission is authorized and empowered to:

- (1) Develop forms for the making of the required reports;
- (2) Prepare and publish a manual for all candidates, political committees and continuing political committees, prescribing the requirements of the law, including uniform methods of bookkeeping and reporting and requirements as to the length of time that any person required to keep any records pursuant to the provisions of this act shall retain such records, or any class or category thereof, or any other documents, including canceled checks, deposit slips, invoices and other similar documents, necessary for the compilation of such records;
- (3) Develop a filing, coding and cross-indexing system;
- (4) Permit copying or photo-copying of any report required to be submitted pursuant to this act as requested by any person;
- (5) Prepare and make available for public inspection summaries of all said reports grouped according to candidates, parties and issues, containing the total receipts and expenditures, and the date, name, address and amount contributed by each contributor;
- (6) Prepare and publish, prior to May 1 of each year, an annual report to the Legislature;
- (7) Ascertain whether candidates, committees, organizations or others have failed to file reports or have filed defective reports; extend, for good cause shown, the dates upon which reports are required to be filed; give notice to delinquents to correct or explain defects; and make available for public inspection a list of such delinquents;
- (8) Ascertain the total expenditures for candidates and determine whether they have exceeded the limits set forth in this act; notify candidates, committees or others if they have exceeded or are about to exceed the limits imposed;

(9) Hold public hearings, investigate allegations of any violations of this act, and issue ~~subpenas~~ subpoenas for the production of documents and the attendance of witnesses;

(10) Forward to the Attorney General or to the appropriate county prosecutor information concerning any violations of this act which may become the subject of criminal prosecution or which may warrant the institution of other legal proceedings by the Attorney General.

c. The commission shall take such steps as may be necessary or appropriate to furnish timely and adequate information, in appropriate printed summaries and in such other form as it may see fit, to every candidate or prospective candidate for public office who becomes or is likely to become subject to the provisions of this act, and to every treasurer and depository duly designated under the provisions of this act, informing them of their actual or prospective obligations and responsibilities under this act. Such steps shall include, but not be limited to, furnishing to every person on whose behalf petitions of nomination are filed for any public office a copy of such printed summary as aforesaid, which shall be furnished to such person by the commission through the public official charged with the responsibility of receiving and accepting such petitions of nomination, at the time when such petitions are filed. The commission shall also make available copies of such printed summary to any other person requesting the same. The commission shall also take such steps as it may deem necessary or effectual to disseminate among the general public such information as may serve to guide all persons who may become subject to the provisions of this act by reason of their participation in election campaigns or in the dissemination of political information, for the purpose of facilitating voluntary compliance with the provisions and purposes of this act. In the dissemination of such information, the commission shall to the greatest extent practicable enlist the cooperation of commercial purveyors, within and without the State, of materials and services commonly used for political campaign purposes.

d. If the nomination for or election to any public office or party position becomes void under the terms of subsection c. of section 21 of this act, the withholding or revocation of his certificate of election, the omission of his name from the ballot or the vacation of the office into which he has been inducted as a result of such void election, as the case may be, shall be subject to the provisions of chapter 3, articles 2 and 3, of this Title (R.S.19:3-7 et seq.).

e. The commission shall be assigned suitable quarters for the performance of its duties hereunder.

f. The commission through its legal counsel is authorized to render advisory opinions as to whether a given set of facts and circumstances would constitute a violation of any of the provisions of this act, or whether a given set of facts and circumstances would render any person subject to any of the reporting requirements of this act.

Unless an extension of time is consented to by any person requesting an advisory opinion, the commission shall render its advisory opinion within 10 days of receipt of the request therefor. Failure of the commission to reply to a request for an advisory opinion within the time so fixed or agreed shall preclude it from instituting proceedings for imposition of a penalty upon any person for a violation of this act arising out of the particular facts and circumstances set

forth in such request, except as such facts and circumstances may give rise to a violation when taken in conjunction with other facts and circumstances not set forth in such request.

g. The commission shall establish a training program for campaign treasurers and organizational treasurers and shall make the training program available through its Internet site within one year of the effective date of this act, P.L.2004, c.22.

L.1973,c.83,s.6; amended 1983, c.579, s.10; 2004, c.22, s.1.

19:44B-7. Powers and duties of commission

It shall be the duty of the commission to investigate and conduct hearings with regard to possible violations and impose penalties, to issue ~~subpenas~~ subpoenas for the production of documents and the attendance of witnesses, and to enforce the provisions of this act in the manner set forth in "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c. 83 (C. 19:44A-1 et seq.). The commission shall have the authority to initiate a civil action in the Superior Court of New Jersey or in any court of competent jurisdiction for the purpose of enforcing compliance with the provisions of this act or enjoining violations thereof or recovering any penalty prescribed by this act. The commission shall promulgate such regulations and official forms and perform such duties as are necessary to implement the provisions of this act.

L.1981, c. 129, s. 7, eff. May 1, 1981.

TITLE 22A FEES AND COSTS

22A:2-25. Law Division filing fees

Upon the filing, entering or docketing with the deputy clerk of the Superior Court in the various counties of the herein-mentioned papers or documents by either party to any action or proceeding in the Law Division of the Superior Court, other than a civil action in which a summons or writ must be issued, he shall pay the deputy clerk of the court the following fees:

Entering of complaint or first paper of any action or proceeding	\$ 9.00
Filing complaint.....	\$ 3.00
Filing answer or appearance.....	\$ 6.00
Filing any other pleading, any amended pleading or any amendment to a pleading	\$ 3.00
Filing and entering each order or judgment of court, including order to show cause.....	\$ 6.00
Filing and entering a voluntary dismissal, either by stipulation or order of court.....	\$ 7.50
Filing notice of appeal	\$15.00
Filing proceedings or papers on appeal	\$ 6.00
Filing first paper on petition for expungement	\$22.50
Filing any other paper or document not herein stated	\$ 4.50

Signing and sealing habeas corpus\$ 7.50
Signing and issuing ~~subpena~~ subpoena\$ 1.50
L. 1953, c. 22, p. 398, s. 11. Amended by L. 1965, c. 123, s. 4; L. 1980, c. 58, s. 1, eff. July 1, 1980; L. 1985, c. 422, s. 1, eff. Jan. 13, 1986.

TITLE 26 HEALTH AND VITAL STATISTICS

26:2D-34. Suspension, revocation, censure or other discipline

a. The license of a radiologic technologist may be suspended for a fixed period, or may be revoked, or the technologist may be censured, reprimanded or otherwise disciplined, in accordance with the provisions and procedures defined in this act, if after due hearing it is determined that he:

(1) Is guilty of any fraud or deceit in his activities as a radiologic technologist or has been guilty of any fraud or deceit in procuring his license;

(2) Has been convicted in a court of competent jurisdiction, either within or without this State, of a crime involving moral turpitude, except that if the conviction has been reversed and the holder of the license discharged or acquitted, or if he has been pardoned or his civil rights restored, the license may be restored to him;

(3) Is or has been afflicted with any medical problem, disability, or addiction which, in the opinion of the board, would impair his professional competence;

(4) Has aided and abetted a person who is not a licensed radiologic technologist or otherwise authorized pursuant to section 4 of this act in engaging in the activities of a radiologic technologist;

(5) Has undertaken or engaged in any practice beyond the scope of the authorized activities of a radiologic technologist pursuant to this act;

(6) Has falsely impersonated a duly licensed or former duly licensed radiologic technologist or is engaging in the activities of a radiologic technologist under an assumed name;

(7) Has been guilty of unethical conduct as defined by rules promulgated by the commission;

(8) Has continued to practice without obtaining a license renewal as required by this act;

(9) Has applied ionizing radiation to a human being without the specific direction of a duly licensed practitioner as defined herein; or to any person or part of the human body outside the scope of his specific authorization;

(10) Has acted or is acting as an owner, co-owner, or employer in any enterprise engaged in the application of ionizing radiation to human beings for the purpose of diagnostic interpretation, chiropractic analysis, or the treatment of disease;

(11) Has expressed to a member of the public an interpretation of a diagnostic x-ray film or fluorescent image;

(12) Has used or is using the prefix "Dr.," unless entitled to do so pursuant to a degree granted, the word "doctor" or any suffix or affix to indicate or imply that the radiologic technologist is a duly licensed practitioner as defined herein when not so licensed;

(13) Is or has been guilty of incompetence or negligence in his activities as a radiologic technologist.

b. Proceedings against any radiologic technologist under this section shall be instituted by filing with the board a written charge or charges under oath against the radiologic technologist. The charges may be preferred by any person, corporation, association or public officer, or by the board in the first instance. A copy thereof, together with a report of the investigation as the board shall deem proper, shall be referred to the commission for its recommendation to the commissioner. If the commissioner determines the matter to be a contested case, he shall either designate three or more members of the board as a committee to hear and report on the charges and shall set a time and place for the hearing or shall refer the matter to the Office of Administrative Law for hearing before an administrative law judge, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.). For the purpose of this section, the board, its committee or the administrative law judge shall have power to issue ~~subpenas~~ subpoenas for the appearance of witnesses, and to take testimony under oath. Upon review of the record of the hearing, the commissioner may affirm, modify or reject the written report and recommendation of the committee or the administrative law judge. If the commissioner finds that the charges have not been proved, he shall order them dismissed. If the charges are found to be true, the commissioner may, in his discretion, issue an order suspending or revoking the license of the accused, or otherwise disciplining him.

c. When the license of any person has been revoked or annulled, as herein provided, the board may, after the expiration of 2 years, accept an application for restoration of the license.

L.1981, c. 295, s. 11, eff. Oct. 9, 1981.

26:12-9. Powers of commissioner; annual report on accidents by camps and by commissioner

a. In order to carry out his duties under this act, the commissioner may enter and inspect any youth camp and its records, may question employees, and may investigate facts, conditions, practices or other matters to the extent he deems it necessary or appropriate.

b. The commissioner shall have the power to administer oaths and examine witnesses under oath, issue ~~subpenas~~ subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, records, payrolls, documents and testimony and to take depositions and affidavits in any proceeding before the commissioner.

c. To determine the areas in which safety standards are necessary and to aid in promulgating

meaningful regulations, camps subject to the provisions of this act shall be required to report annually, on the date prescribed by the commissioner, all accidents resulting in death, injury and illness, other than minor injuries which require only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of activity or motion, or premature termination of the camper's term at the camp. The commissioner shall compile the statistics reported and include summaries thereof in his annual report to the Governor and the Legislature.

L.1973, c. 375, s. 9, eff. Jan. 9, 1974.

30:1-12.1. Investigations by commissioner; witnesses; ~~subpena~~ subpoena

The commissioner may make, or cause to be made, such investigations as he deems necessary in the administration of the Department of Institutions and Agencies. For the purpose of any such investigation he may cause to be examined under oath any and all persons whatsoever and compel by ~~subpena~~ subpoena the attendance of witnesses and the production of such books, records, accounts, papers and other documents as are appropriate. If a witness fails without good cause to attend, testify or produce such records or documents as directed in the ~~subpena~~ subpoena, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons or ~~subpena~~ subpoena issued from a court of record in this State.

L.1973, c. 101, s. 1, eff. May 2, 1973.

30:1B-6 Powers, duties of commissioner.

6. The commissioner, as administrator and chief executive officer of the department, shall:
 - a. Administer the work of the department;
 - b. Appoint and remove officers and other personnel employed within the department, subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, and other applicable statutes, except as herein otherwise specifically provided;
 - c. Perform, exercise and discharge the functions, powers and duties of the department through such divisions as may be established by this act or otherwise by law;
 - d. Organize the work of the department in such divisions, not inconsistent with the provisions of this act, and in such bureaus and other organizational units as he may determine to be necessary for efficient and effective operation;
 - e. Formulate, adopt, issue and promulgate, in the name of the department such rules and regulations for the efficient conduct of the work and general administration of the department, the institutions or noninstitutional agencies within its jurisdiction, its officers and employees as may be authorized by law;

f. Determine all matters relating to the unified and continuous development of the institutions and noninstitutional agencies within his jurisdiction;

g. Determine all matters of policy and regulate the administration of the institutions or noninstitutional agencies within his jurisdiction, correct and adjust the same so that each shall function as an integral part of a general system. The rules, regulations, orders and directions promulgated by the commissioner for this purpose shall be accepted and enforced by the executive having charge of any institution or group of institutions or noninstitutional agencies or any phase of the work within the jurisdiction of the department;

h. Institute or cause to be instituted such legal proceedings or processes as may be necessary to enforce properly and give effect to any of his powers or duties; for the purpose of any such investigation, he may cause to be examined under oath any and all persons whatsoever and compel by ~~subpena~~ subpoena the attendance of witnesses and the production of such books, records, accounts, papers and other documents as are appropriate. If a witness fails without good cause to attend, testify or produce such records or documents as are directed in the ~~subpena~~ subpoena, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons or ~~subpena~~ subpoena issued from a court of record in this State;

i. Make a report in each year to the Governor and to the Legislature of the department's operations for the preceding fiscal year, and render such other reports as the Governor shall from time to time request or as may be required by law;

j. Appoint such advisory committees as may be desirable to advise and assist the department or a division in carrying out its functions and duties;

k. Maintain suitable headquarters for the department and such other quarters as he shall deem necessary to the proper functioning of the department;

l. Develop and from time to time revise and maintain a comprehensive master plan for the State's correctional system which shall indicate, among other things, the department's goals, objectives, resources and needs;

m. Promote the development of alternatives to conventional incarceration for those offenders who can be dealt with more effectively in less restrictive, community-based facilities;

n. (Deleted by amendment, P.L.1995, c.280);

o. Promote a unified criminal justice system, including the integration of State and local correctional programs and probation and parole services;

p. Provide for the timely and efficient collection and analysis of data regarding the correctional system to insure the continuing review and evaluation of correctional services, policies and procedures;

- q. Perform such other functions as may be prescribed in this act or by any other law; and
- r. Compile and provide to the Department of Labor and Workforce Development and the Department of Human Services identifying information on each inmate incarcerated in each State institution at the time of incarceration. The information shall be transmitted electronically in a timely manner and shall provide identifying characteristics, including name and Social Security number, to be used by the Department of Labor and Workforce Development and the Department of Human Services to verify individuals' eligibility for benefit programs administered by each department.

L.1976, c.98, s.6; amended 1995, c.280, s.282; 2013, c.274, s.4.

30:4-34 County adjuster for commitment of persons with mental illness.

30:4-34. In each county where county counsel, county solicitor, county clerk, county physician or county probation officer, or any of their assistants is in charge and supervision of the preparation of papers relating to the commitment of persons with mental illness, such person shall be known as "county adjuster" and such duties shall, except as otherwise provided in section 2 of P.L.1981, c.403 (C.30:4-34.1), continue to pertain to the office of such county counsel, county solicitor, county clerk, county physician or county probation officer or their successors in office, but, notwithstanding the foregoing, in case any other county official or employee shall be at the time of the adoption of this act, in charge and supervision of the preparation of papers relating to the commitment of persons with mental illness, the governing body of the county may designate that county official or employee as county adjuster. In all other counties the county governing body shall designate some county official or employee as county adjuster.

The county adjuster shall have charge and supervision of the preparation of papers relating to the commitment of persons with mental illness in such county, and in cases arising in other counties in which the legal settlement appears to be in his county. Classification under civil service rules shall not be affected by reason of such designation or additional duties, and additional compensation, if any, for such services may be fixed by the county governing body and paid in the same manner as other county employees are paid. Each county governing body shall notify the various institutions for persons with mental illness of the name and address of the county adjuster.

The judge of the Superior Court within the county may appoint the county adjuster to act as referee for the purpose of taking testimony bearing solely on the question of legal settlement and the financial ability of the person with mental illness or the parent of the person with mental illness, if the person is under the age of 18, to pay the cost of maintenance, in accordance with the provisions of R.S.30:4-60, and shall make return to the court of his findings, conclusions and recommendations. Such findings, conclusions and recommendations shall be subject to the approval of the court and shall not be effective until incorporated in an appropriate order or judgment of the court. The county adjuster, acting as such referee, may ~~subpena~~ subpoena witnesses and compel their attendance on forms approved by the court.

Amended 1953, c.29, s.12; 1954, c.167; 1965, c.59, s.28; 1981, c.403, s.1; 1995, c.155, s.9; 1998, c.92; 2005, c.55, s.2.

30:4-123.50. Office facilities and clerical assistance; cooperation in furnishing information and data to board; power of ~~subpena~~ subpoena; failure to respond; penalty

a. The Department of Corrections shall provide such office facilities and clerical assistance as may be necessary to enable the board to perform properly its duties and to keep and maintain the records required herein.

b. The Department of Corrections, the chief executive officers and staffs of those facilities assigned to the Department of Corrections, the chief executive officers and staffs of the county jails, workhouses, and penitentiaries and the chief executive officers and staffs of those facilities assigned to the Department of Human Services where inmates or parolees are housed shall render full and complete cooperation to the board in the matter of furnishing the board all pertinent data and information relating to particular inmates. It shall also be the duty of the clerk of the court from which the inmate was committed, and of county probation officers and other officials, to forward to the board any commitment order, any presentence report, and the sentencing court's written reasons for any sentence imposed. The board shall in addition have the power to compel the appearance of witnesses and the production of documentary evidence relevant to any proceedings before it. Failure to respond to any ~~subpena~~ subpoena shall carry the penalty prescribed by law for failure to so respond in the Superior Court.

L.1979, c. 441, s. 6.

30:4-123.63. Revocation of parole; hearing

19. a. If the hearing officer finds probable cause pursuant to subsection c. (1) of section 18 of P.L.1979, c.441 (C.30:4-123.62) and finds that revocation is desirable pursuant to subsection c. (2) of section 18 of P.L.1979, c.441 (C.30:4-123.62), or if the parolee is convicted of a criminal offense committed while on parole or is adjudicated delinquent for an act which, if committed by an adult, would constitute a crime, the board shall cause a revocation hearing to be conducted by a hearing officer, other than the hearing officer previously designated pursuant to section 18 of P.L.1979, c.441 (C.30:4-123.62), within 60 days after the date a parolee is taken into custody as a parole violator unless the parolee or the hearing officer requests postponement of the revocation hearing, which may be granted by appropriate board panel for good cause, but in no event shall such postponement, if requested by the hearing officer, exceed 120 days.

b. Prior to the revocation hearing, the parolee shall be given written notice of:

- (1) The time, date and place of the parole revocation hearing;
- (2) The right pursuant to P.L.1974, c.33 (C.2A:158A-5.1 et seq.), to representation by an attorney or such other qualified person as the parolee chooses;
- (3) The right to confront and cross-examine witnesses, and to rebut documentary evidence

against him; and

(4) The right to testify, to present evidence and to ~~subpena~~ subpoena witnesses in his own behalf, provided a prima facie showing is made that the prospective witnesses will provide material testimony.

c. The hearing officer shall maintain a full and complete record of the parole revocation hearing.

d. After consideration of all evidence presented, if there is clear and convincing evidence that a parolee has violated the conditions of his parole, such violation being a basis for return to custody pursuant to subsection b. or c. of section 16 of P.L.1979, c.441 (C.30:4-123.60), and if revocation and return to custody is desirable in the instant matter, the appropriate board panel may revoke parole and return such parolee to custody, for a specified length of time, or in accordance with the provisions of sections 16 and 17 of P.L.1979, c.441 (C.30:4-123.60 and 30:4-123.61), or the appropriate board panel may issue an order modifying parole and releasing the offender or continuing parole and releasing the offender.

e. Not more than 21 days following the hearing conducted pursuant to this section, the parolee and his representative shall be informed in writing of the decision, the particular reasons therefor, and the facts relied on.

L.1979,c.441,s.19; amended 1995,c.280,s.43.

30:4C-59 Written notice in advance of review.

10. Each board shall provide written notice of the date, time and place of each review at least 15 days in advance to the following, each of whom shall be entitled to attend the review and to submit information in writing to the board:

- a. The division or agency;
- b. The child;
- c. The parents including a non-custodial parent or legal guardian;
- d. The temporary caretaker;
- e. Any other person or agency whom the board determines has an interest in or information relating to the welfare of the child;
- f. The counsel for a parent, child or other interested party who has provided or is providing representation in the case before the board; and

If the child's caretaker is a resource family parent or relative, the caretaker shall receive written notice of, and shall have a right to be heard at, the review, but the caretaker shall not be made a

party to the review solely on the basis of the notice and right to be heard.

The board may determine who may be in attendance at any particular portion of its meeting. Nothing herein shall be interpreted to exclude judges and court support staff from attending review board meetings.

The written notice shall inform the person of his right to attend the review and to submit written information and shall be prepared in a manner which will encourage the person's attendance at the review.

Notice to the child may be waived by the court on a case by case basis either on its own motion or on the petition of any of the above persons in cases where the court determines that notice would be harmful to the child. A waiver of notice to the child shall not waive the notice requirement to counsel for the child or other representatives of the child.

The review board may seek information from any agency which has been involved with the child, parents or legal guardian or temporary caretaker. If the agency fails to provide the requested information, the court may, upon the request of the board, issue a ~~subpena~~ subpoena to the agency for the information.

The board shall conduct a review and make recommendations based upon the written materials; provided, however, that the board shall afford any party or person entitled to notice pursuant to this section a reasonable opportunity to appear and to present his views and recommendations. Upon the request of the board, the Family Part of the Chancery Division of the Superior Court may ~~subpena~~ subpoena a person to attend the review board meeting.

A designated agency shall provide relevant and necessary information to the board regarding a child who is reviewed by the board.

L.1977, c.424, s.10; amended 1978, c.125, s.6; 1982, c.24, s.4; 1984, c.85, s.5; 1987, c.252, s.7; 1999, c.53, s.46; 2004, c.130, s.87; 2007, c.228, s.6.

TITLE 34 LABOR AND WORKMEN'S COMPENSATION

34:6A-42. Occupational Safety and Health Review Commission

18. a. There is established an Occupational Safety and Health Review Commission within the Department of Labor to hear appeals regarding orders to comply and penalties issued under this act. The commission shall consist of three members appointed by the Governor from among persons who by reason of training, education or experience are qualified to carry out the functions of the commission. The Governor shall designate one of the members of the commission to serve as chairman.

b. Members of the review commission shall serve terms of four years and until their successors are appointed. The salaries, compensation and wages of the members of the commission shall be established by the commissioner. The Department of Labor shall provide the review commission

with the support staff necessary for the review commission to perform its duties. The members and the support staff shall be reimbursed for necessary expenses incurred in the performance of their duties.

c. The review commission shall meet as often as is necessary to hear and rule on appeals regarding orders to comply and penalties issued under this act. The review commission shall adopt rules with respect to the procedural aspects of its hearings.

d. An employee or employee representative may participate as a party to any proceeding regarding the employees' employer before the review commission.

e. The review commission shall hear and make a determination upon any proceeding instituted before it, and shall make a report of the determination which shall constitute its final disposition of the proceedings. The report shall become the final order of the commission 45 days after the issuance of the report.

f. In the conduct of hearings the review commission may ~~subpena~~ subpoena and examine witnesses, require the production of evidence, administer oaths and take testimony and depositions.

g. After hearing an appeal the review commission may sustain, modify or dismiss a citation or penalty.

L.1983,c.516,s.18; amended 1995,c.186,s.12.

34:8A-11.1. Duties of commissioner

The commissioner or his designated representative shall investigate and gather data with respect to matters which may aid in carrying out the provisions of this act. In any case in which a complaint has been filed with the commissioner regarding a violation of this act or with respect to which the commissioner has reasonable grounds to believe that a crew leader has violated any provisions of this act, the commissioner or his designated representative shall investigate and gather data respecting such case, and may, in connection therewith, issue ~~subpenas~~ subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigation. The commissioner or any agent designated by him for such purposes may administer oaths and affirmations, examine witnesses, and receive evidence.

In addition, the commissioner shall affirmatively monitor and investigate the activities and operations of crew leaders as described in this act without respect to specific complaints, at such frequency and in such a manner as is reasonably necessary to assure the enforcement of the provisions of this act by adopting and implementing a plan to include, as a minimum, (1) the interviewing each month, April through November, of a representative cross section of seasonal farm workers employed by virtue of the services of crew leaders registered with the State, and (2) the making of periodic inspections of records such as those required by subsection a. of section 4 (C. 34:8A-10) of the act hereby supplemented.

L.1975, c. 49, s. 7, eff. April 7, 1975.

34:13A-6. Powers and duties

(a) Upon its own motion, in an existing, imminent or threatened labor dispute in private employment, the board, through the Division of Private Employment Dispute Settlement, may, and, upon the request of the parties or either party to the dispute, must take such steps as it may deem expedient to effect a voluntary, amicable and expeditious adjustment and settlement of the differences and issues between employer and employees which have precipitated or culminated in or threaten to precipitate or culminate in such labor dispute.

(b) Whenever negotiations between a public employer and an exclusive representative concerning the terms and conditions of employment shall reach an impasse, the commission, through the Division of Public Employment Relations shall, upon the request of either party, take such steps as it may deem expedient to effect a voluntary resolution of the impasse. In the event of a failure to resolve the impasse by mediation the Division of Public Employment Relations is empowered to recommend or invoke factfinding with recommendation for settlement, the cost of which shall be borne by the commission.

(c) The board in private employment, through the Division of Private Employment Dispute Settlement, and the commission in public employment, through the Division of Public Employment Relations, shall take the following steps to avoid or terminate labor disputes: (1) to arrange for, hold, adjourn or reconvene a conference or conferences between the disputants or one or more of their representatives or any of them; (2) to invite the disputants or their representatives or any of them to attend such conference and submit, either orally or in writing, the grievances of and differences between the disputants; (3) to discuss such grievances and differences with the disputants and their representatives; and (4) to assist in negotiating and drafting agreements for the adjustment in settlement of such grievances and differences and for the termination or avoidance, as the case may be, of the existing or threatened labor dispute.

(d) The commission, through the Division of Public Employment Relations, is hereby empowered to resolve questions concerning representation of public employees by conducting a secret ballot election or utilizing any other appropriate and suitable method designed to ascertain the free choice of the employees. The division shall decide in each instance which unit of employees is appropriate for collective negotiation, provided that, except where dictated by established practice, prior agreement, or special circumstances, no unit shall be appropriate which includes (1) both supervisors and nonsupervisors, (2) both professional and nonprofessional employees unless a majority of such professional employees vote for inclusion in such unit or, (3) both craft and noncraft employees unless a majority of such craft employees vote for inclusion in such unit. All of the powers and duties conferred or imposed upon the division that are necessary for the administration of this subdivision, and not inconsistent with it, are to that extent hereby made applicable. Should formal hearings be required, in the opinion of said division to determine the appropriate unit, it shall have the power to issue ~~subpoenas~~ subpoenas as described below, and shall determine the rules and regulations for the conduct of such hearing or hearings.

(e) For the purposes of this section the Division of Public Employment Relations shall have the authority and power to hold hearings, ~~subpena~~ subpoena witnesses, compel their attendance, administer oaths, take the testimony or deposition of any person under oath, and in connection therewith, to issue ~~subpenas~~ subpoenas duces tecum, and to require the production and examination of any governmental or other books or papers relating to any matter described above.

(f) In carrying out any of its work under this act, the board may designate one of its members, or an officer of the board to act in its behalf and may delegate to such designee one or more of its duties hereunder and, for such purpose, such designee shall have all the powers hereby conferred upon the board in connection with the discharge of the duty or duties so delegated. In carrying out any of its work under this act, the commission may designate one of its members or an officer of the commission to act on its behalf and may delegate to such designee one or more of its duties hereunder and, for such purpose, such designee shall have all of the powers hereby conferred upon the commission in connection with the discharge of the duty or duties so delegated.

(g) The board and commission may also appoint and designate other persons or groups of persons to act for and on its behalf and may delegate to such persons or groups of persons any and all of the powers conferred upon it by this act so far as it is reasonably necessary to effectuate the purposes of this act. Such persons shall serve without compensation but shall be reimbursed for any necessary expenses.

(h) The personnel of the Division of Public Employment Relations shall include only individuals familiar with the field of public employee-management relations. The commission's determination that a person is familiar in this field shall not be reviewable by any other body.

L.1941, c. 100, p. 230, s. 6. Amended by L.1968, c. 303, s. 8, eff. July 1, 1968; L.1974, c. 123, s. 5.

34:13A-17. Powers of arbitrator

The arbitrator may administer oaths, require the attendance of witnesses, and the production of such books, papers, contracts, agreements and documents as he may deem material to a just determination of the issues in dispute, and for such purpose may issue ~~subpenas~~ subpoenas. If any person refuses to obey a ~~subpena~~ subpoena, or refuses to be sworn or to testify, or if any witness, party or attorney is guilty of any contempt while in attendance at any hearing, the arbitrator may, or the Attorney General if requested shall, invoke the aid of the Superior Court within the county in which the hearing is being held, which court shall issue an appropriate order. Any failure to obey the order may be punished by the court as contempt.

L.1977, c. 85, s. 4, eff. May 10, 1977.

38A:3-21. Powers of council

7. The council may hold hearings in any part of the State and by its ~~subpena~~ subpoena may compel the attendance of witnesses and the production of books, papers and records. It shall be entitled to the assistance and services of any State, county, municipal and school district employees as may be required, and the council may employ competent counsel, expert advisers and any other assistants as may be required for the proper accomplishment of the purposes of this act, provided that the compensation to be paid to the counsel, advisers and assistants shall be within the limits of the appropriation made therefor.

L.1992,c.86,s.7.

TITLE 39 MOTOR VEHICLES AND TRAFFIC REGULATION

39:5F-4. Definitions

As used in this compact:

- a. "Citation" means any summons, ticket, or other official document issued by a police officer for a traffic violation, containing an order which requires the motorist to respond;
- b. "Collateral" means any cash or other security deposited to secure an appearance for trial, following the issuance by a police officer of a citation for a traffic violation;
- c. "Compliance" means the act of answering a citation, summons or ~~subpena~~ subpoena through appearance at court, or payment of fines and costs, or both;
- d. "Court" means a court of law or traffic tribunal;
- e. "Driver's license" means any license or privilege to operate a motor vehicle issued under the laws of the home jurisdiction;
- f. "Home jurisdiction" means the jurisdiction that issued the driver's license of the traffic violator;
- g. "Issuing jurisdiction" means the jurisdiction in which the traffic citation was issued to the motorist;
- h. "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Provinces of Canada, or other countries;
- i. "Motorist" means a driver of a motor vehicle operating in a party jurisdiction other than the home jurisdiction;

j. "Personal recognizance" means an agreement by a motorist made at the time of issuance of the traffic citation that he will comply with the terms of that traffic citation;

k. "Police officer" means any individual authorized by the party jurisdiction to issue a citation for a traffic violation;

l. "Terms of the citation" means those options expressly stated upon the citation.

L.1983, c. 46, s. 4, eff. Jan. 28, 1983.

Article III

39:6A-29. Subpoenas

The arbitrators may, at their initiative or at the request of any party to the arbitration, issue ~~subpenas~~ subpoenas for the attendance of witnesses and the production of books, records, documents and other evidence. ~~Subpenas~~ Subpoenas shall be served and shall be enforceable in the manner provided by law.

L.1983, c. 358, s. 6.

TITLE 40 MUNICIPALITIES AND COUNTIES

40:37A-55 Body politic and corporate; powers and duties.

12. Every authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public convenience, benefit and welfare and shall have perpetual succession and, for the effectuation of its purposes, have the following additional powers:

- (a) To adopt and have a common seal and to alter the same at pleasure;
- (b) To sue and be sued;
- (c) To acquire, hold, use and dispose of its facility charges and other revenues and other moneys;
- (d) To acquire, rent, hold, use and dispose of other personal property for the purposes of the authority;
- (e) Subject to the provisions of section 26 of this act, to acquire by purchase, gift, condemnation or otherwise, or lease as lessee, real property and easements or interests therein necessary or useful and convenient for the purposes of the authority, whether subject to mortgages, deeds of trust or other liens or otherwise, and to hold and to use the same, and to

dispose of property so acquired no longer necessary for the purposes of the authority; provided that the authority may dispose of such property at any time to any governmental unit or person if the authority shall receive a leasehold interest in the property for such term as the authority deems appropriate to fulfill its purposes;

(f) Subject to the provisions of section 13 of this act, to lease to any governmental unit or person, all or any part of any public facility for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;

(g) To enter into agreements to lease, as lessee, public facilities for such term and under such conditions as the authority may deem necessary and desirable to fulfill its purposes, and to agree, pursuant thereto, to be unconditionally obligated to make payments for the term of the lease, without set-off or counterclaim, whether or not the public facility is completed, operating or operable, and notwithstanding the destruction of, damage to, or suspension, interruption, interference, reduction or curtailment of the availability or output of the public facility to which the agreement applies;

(h) To extend credit or make loans to any governmental unit or person for the planning, design, acquisition, construction, equipping and furnishing of a public facility, upon the terms and conditions that the loans be secured by loan and security agreements, mortgages, leases and other instruments, the payments on which shall be sufficient to pay the principal of and interest on any bonds issued for the purpose by the authority, and upon such other terms and conditions as the authority shall deem reasonable;

(i) Subject to the provisions of section 13 of this act, to make agreements of any kind with any governmental unit or person for the use or operation of all or any part of any public facility for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;

(j) (1) To borrow money and issue negotiable bonds or notes or other obligations and provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;

(2) To issue bonds, notes or other obligations to provide funding to a municipality that finances the purchase and installation of renewable energy systems and energy efficiency improvements by property owners as provided in section 2 of P.L.2011, c.187 (C.40:56-13.1);

(k) To apply for and to accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the authority from any governmental unit or person, and to make and perform agreements and contracts and to do any and all things necessary or useful and convenient in connection with the procuring, acceptance or disposition of such gifts or grants;

(l) To determine the location, type and character of any public facility and all other matters in connection with all or any part of any public facility which it is authorized to own, construct, establish, effectuate or control;

(m) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of any public facility, and to amend the same;

(n) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contract with any governmental unit or person;

(o) To acquire, purchase, construct, lease, operate, maintain and undertake any project and to fix and collect facility charges for the use thereof;

(p) To mortgage, pledge or assign or otherwise encumber all or any portion of its revenues and other income, real and personal property, projects and facilities for the purpose of securing its bonds, notes and other obligations or otherwise in furtherance of the purpose of this act;

(q) To extend credit or make loans to redevelopers for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing any redevelopment project or redevelopment work;

(r) To conduct examinations and investigations, hear testimony and take proof, under oath at public or private hearings of any material matter, require the attendance of witnesses and the production of books and papers and issue commissions for the examination of witnesses who are out of the State, unable to attend, or excused from attendance;

(s) To authorize a committee designated by it consisting of one or more members, or counsel, or any officer or employee to conduct any such investigation or examination, in which case such committee, counsel, officer or employee shall have power to administer oaths, take affidavits and issue ~~subpenas~~ subpoenas or commissions;

(t) To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the authority or to carry out any power expressly given in this act subject to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.); and

(u) To pool loans for any local governmental units within the county or any beneficiary county that are refunding bonds and do and perform any and all acts or things necessary, convenient or desirable for the purpose of the authority to achieve more favorable interest rates and terms for those local governmental units.

L.1960, c.183, s.12; amended 1975, c.96, s.6; 1977, c.291, s.1; 1979, c.275, s.33; 1982, c.113, s.8; 2002, c.42, s.9; 2011, c.187, s.4.

40:37A-131. Powers of authority

In order to carry out the purposes and provisions of this act, the authority in addition to any powers granted to it elsewhere in this act or the "county improvement authorities law," P.L.1960, c. 183 (C. 40:37A-44 et seq.), shall have the following powers:

a. To conduct examinations and hearings and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter material for its information and necessary to carry out the provisions of this act;

b. To issue ~~subpenas~~ subpoenas requiring the attendance of witnesses and the production of books and papers pertinent to any hearing before such authority or before one or more of the members of the authority appointed by it to conduct such hearing;

c. To apply to any court, having territorial jurisdiction of the offense, to have punished for contempt any witness who refuses to obey a ~~subpena~~ subpoena, or who refuses to be sworn or affirmed to testify, or who is guilty of any contempt after summons to appear;

d. To acquire by purchase, gift, foreclosure or condemnation any real or personal property, or any interest therein, to enter into any lease of property and to hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage lien interest owned by it or under its control, custody or in its possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption, in property foreclosed by it and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law;

e. To adopt such rules and regulations as shall be expressly authorized by this act and such additional rules and regulations as shall be necessary or desirable to carry out the purposes of this act;

f. To borrow money or secure credit on a temporary, short-term, interim or on a long-term basis, and to issue negotiable bonds, bond anticipation notes or other notes or obligations and to provide for and secure the payment thereof and to provide for the rights of the holders thereof;

g. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including contracts or agreements with qualified financial institutions for the servicing and processing of mortgage loans pursuant to this act;

h. To do and perform any acts and things authorized by this act under, through, or by means of its officers, agents or employees or by contract with any person, firm or corporation;

i. To finance by mortgage loans or otherwise the construction or rehabilitation of housing projects and to make temporary loans or advances in anticipation of permanent loans, and to make funds for mortgage and other loans available to appropriate and qualified entities as may be designated by the authority;

j. To receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this act, subject to such conditions upon which such grants and contributions may be made, including, but not

limited to, gifts or grants from any department or agency of the United States or this State for payment of rent supplements or rental assistance to eligible families or for the payment in whole or in part of the interest expense for a housing project or for any other purpose consistent with this act;

k. To enter into agreements to pay annual sums in lieu of taxes to any political subdivision of the State with respect to any real property owned or operated directly by the authority for purposes of this act;

l . To procure insurance against any loss in connection with its property, operations and assets (including mortgages and loans) in such amount and from such insurers as it deems desirable;

m. To the extent permitted under its contract with the holders of bonds, bond anticipation notes and other notes or obligations of the authority, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other term of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the authority is a party;

n. To the extent permitted under its contract with the holders of bonds, bond anticipation notes and other notes or obligations, to enter into contracts with any qualified housing sponsor containing provisions enabling the said qualified housing sponsor to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges where by reason of other income or payment from the authority, any department or agency of the United States or this State, such reductions can be made without jeopardizing the economic stability of the housing project;

o . To establish and revise from time to time and charge and collect such fees and charges including, but not limited to, payment for all costs of financing by the authority, services, mortgage insurance premiums, reserves against losses, reimbursement for advances made to the authority, as the authority shall determine are reasonable to enable the authority, to the extent feasible, to be self-sustaining;

p. Subject to any agreement with holders of bonds, bond anticipation notes or other notes or obligations, to invest and reinvest any moneys of the authority not required for immediate use or disbursement, including proceeds from the sale of any bonds, bond anticipation notes or other notes or obligations and any moneys held in the housing finance funds, reserve funds or sinking funds, in such obligations, securities and other investments as the authority shall deem prudent;

q. Subject to any agreement with the holders of bonds, bond anticipation notes or other notes or obligations, to purchase bonds, bond anticipation notes or other notes or obligations of the authority out of any funds or money of the authority available therefor, and to hold, cancel to resell such bonds, bond anticipation notes or other notes or obligations;

r. To provide, contract or arrange for, where by reason of the financing arrangement, review of the application and proposed construction of a project is required by or in behalf of any

department or agency of the United States, consolidated processing of any such application or supervision to avoid duplication thereof by either undertaking the processing in whole or in part for any such department or agency or, in the alternative, delegating the processing in whole or in part to any such department or agency;

s. To make mortgage loans and to participate with any department or agency of the United States, this State, a municipality, or any banking institution, foundation, labor union, insurance company, trustee or fiduciary in a loan to a qualified housing sponsor secured by a single participating mortgage or by separate mortgages, the interest of each having equal priority as to lien in proportion to the amount of the loan so secured, but need not be equal as to interest rate, time or rate of amortization or otherwise and to undertake commitments to make such loans;

t. To sell, at public or private sale, with or without bidding, any mortgage or other obligation securing a mortgage loan made by the authority;

u. To make commitments to purchase, and to purchase, service and sell, mortgages insured by any department or agency of the United States, and to make loans directly upon the security of any such mortgage;

v. To enter into partnerships, limited partnerships, joint ventures or other associations as a general partner, limited partner or participant therein with qualified housing sponsors to carry out the purposes of the authority;

w. To provide qualified housing sponsors and other individuals and organizations with such advisory consultation, training and educational services as will increase the availability and supply of housing and increase housing opportunities for low and moderate income families, including but not limited to assistance in community development and organization, home management and advisory services for the residents of the housing projects, and to encourage community organizations to assist in developing such projects;

x. To administer funds established for the provision of loans and grants, including but not limited to revolving loan funds established pursuant to P.L.1947, c. 71 (C. 40:48-8.15 et seq.), to qualified housing sponsors and other individuals and organizations, for the purpose of increasing the availability and supply of housing for low and moderate income families;

y. To encourage research in, and demonstration projects to develop, new and better techniques and methods for increasing the supply of housing for moderate income families and to engage in such research and demonstration projects and to receive and accept contributions, grants or aid, from any source, public or private, including, but not limited to the United States and this State, for carrying out this purpose;

z. To provide to qualified housing sponsors through mortgage loans or otherwise, financing or refinancing of fully completed, as well as partially completed, projects which may or may not be occupied, provided that said projects meet all the requirements of the act and

aa. To do any and all things necessary or convenient to carry out its purposes and exercise the

powers given and granted in the act.

L.1979, c. 275, s. 26, eff. Jan. 3, 1980. Amended by L.1981, c. 460, s. 3, eff. Jan. 8, 1982; L.1982, c. 113, s. 18, eff. Aug. 14, 1982.

40:43-66.51. Meetings and hearings; application of Open Public Meetings Act; ~~subpenas~~ subpoenas

The commission shall hold its meetings and hearings in accordance with the provisions of the "Open Public Meetings Act" (P.L.1975, c. 231; C. 10:4-6 et seq.), and shall generally provide for the widest possible public information and discussion with regard to the purposes and progress of its work.

The commission shall have the power to take testimony and issue ~~subpenas~~ subpoenas; to compel the attendance of officers and employees of the participating municipalities; to compel the production of all books, documents and other papers of the participating municipalities; and, to administer oaths to persons appearing before it to testify. Any such ~~subpenas~~ subpoenas shall be enforceable, and misconduct of a witness may be dealt with, in the manner provided by the "County and Municipal Investigations Law" (P.L.1953, c. 38; C. 2A:67A-1 et seq.).

L.1977, c. 435, s. 17, eff. March 1, 1978.

TITLE 40A MUNICIPALITIES AND COUNTIES

40A:9-25. Removal of officers and employees; procedure; review

In any county wherein Title 11 (Civil Service) of the Revised Statutes is not operative and unless otherwise provided by law, any officer or employee of such county who shall be removable from his office or position only for cause, shall not be removed from his office or position until after written charges of the cause of complaint shall have been preferred against him, signed by the person making such charges. The complaint shall be filed with the governing body of the county and a copy thereof shall be served upon the officer or employee so charged, with notice of a designated time and place for the hearing thereon, which shall be no sooner than 10 days nor later than 30 days from the service of the complaint. At the hearing such officer or employee may be represented by counsel.

The governing body and the person so charged shall have the power to ~~subpena~~ subpoena witnesses and documentary evidence. The governing body shall prescribe the rules and regulations for the conduct of the hearing.

No officer or employee shall be removed from his office or position for political reasons.

The Superior Court shall have jurisdiction to review the determination of the governing body and shall hear the cause de novo on the record below. Either party may supplement the record with additional testimony subject to the rules of evidence. The court may either affirm, reverse or modify the conviction.

L.1971, c. 200, s. 1, eff. July 1, 1971. Amended by L.1981, c. 75, s. 1, eff. March 23, 1981.

40A:9-140.9. Complaint; filing; hearing; representation; jurisdiction of Superior Court

The complaint shall be filed with the municipal clerk and the director and a certified copy thereof shall be served upon the person so charged. The director shall thereafter designate a hearing date before the director or his designee, which shall be not less than 30 days nor later than 60 days from the date of service of the complaint. The hearing date may be extended by the Superior Court for good cause shown upon the application of either party.

The person so charged and the complainant shall have the right to be represented by counsel and the power to ~~subpoena~~ subpoena witnesses and documentary evidence, together with discovery proceedings.

The Superior Court shall have jurisdiction to review the determination of the director, which court shall hear the cause de novo on the record below and affirm, modify or set aside such determination.

Either party may supplement the record with additional testimony subject to the rules of evidence.

L.1977,c.39,s.3; amended 1981,c.75,s.2; 1988,c.110,s.14; 1991,c.175,s.7.

40A:9-145.8 Tenure; removal from office; dismissal; procedure.

8. Notwithstanding the provisions of any other law to the contrary, any person who:

a. Shall be reappointed tax collector subsequent to having received a tax collector certificate pursuant to section 3 or 4 of P.L.1979, c.384, or holds a tax collector certificate issued pursuant to N.J.S.40A:9-141, section 2 of P.L.1979, c.384 (C.40A:9-145.2), and section 6 of P.L.1993, c.25 (C.40A:9-145.3a), and having served as tax collector or performed the duties of tax collector for not less than four consecutive years immediately prior to such reappointment; or,

b. shall have acquired tenure; shall hold his office during good behavior, efficiency, and compliance with requirements for continuing education pursuant to sections 6 and 7 of P.L.1993, c.25 (C.40A:9-145.3a and C.40A:9-145.3b), notwithstanding that such reappointment was for a fixed term of years; and he shall not be removed therefrom for political reasons but only for good cause shown and after a proper hearing before the director or his designee.

c. The removal of a municipal tax collector shall be only upon a written complaint setting forth with specificity the charge or charges against him. The complaint shall be filed with the municipal clerk and the director and a certified copy thereof shall be served upon the person so charged, with notice of a designated hearing date before the director or his designee, which shall be not less than 30 days nor more than 60 days from the date of service of the complaint. Such

date may be extended by the Superior Court for good cause shown upon the application of either party. The person so charged and the complainant shall have the right to be represented by counsel and the power to ~~subpena~~ subpoena witnesses and documentary evidence together with discovery proceedings. The provisions of this section shall apply to every person actually in office as tax collector or performing the duties of tax collector whether or not in the classified service under Title 11A, Civil Service, of the New Jersey Statutes.

d. For the purposes of this section, the definition of good cause for removal of a tax collector may include the failure of a tax collector to meet the continuing education requirement set forth in sections 6 and 7 of P.L.1993, c.25 (C.40A:9-145.3a and C.40A:9-145.3b).

e. In the case of a pilot municipality, a tenured tax collector may be dismissed to effectuate the sharing of a service entered into pursuant to the provisions of P.L.2007, c.63 (C.40A:65-1 et seq.) and such dismissal shall be deemed to be in the interest of the economy or efficiency of the participants in the shared service agreement. The removal of a tax collector under this subsection shall not require the pilot municipality to fulfill the requirements of section 8 of P.L.1979, c.384 (C.40A:9-145.8). Instead, the pilot municipality shall provide the tax collector with a written copy of the shared service agreement entered into by the pilot municipality, and a letter stating that the position of tax collector in the pilot municipality is being eliminated for reasons of economy or efficiency as the result of the shared service agreement.

Any such shared service agreement shall be subject to the provisions of section 4 of P.L.2007, c.63 (C.40A:65-4) and of section 3 of P.L.2013, c.166 (C.40A:65-4.2).

L.1979, c.384, s.8; amended 1993, c.25, s.5; 2013, c.166, s.13.

40A:9-152.1. Removal of municipal treasurer; complaint; hearing; review

Any removal of a municipal treasurer having tenure in office shall be upon a written complaint setting forth the charge or charges against him.

The complaint shall be filed with the municipal clerk and a certified copy thereof shall be served upon the person so charged, with notice of a designated hearing date before the members of the governing body, which shall be not less than 10 days nor later than 30 days from the date of service of the complaint. The said hearing date shall be fixed by resolution of the governing body.

The person so charged and the governing body shall have the right to be represented by counsel and the power to ~~subpena~~ subpoena witnesses and documentary evidence.

The Superior Court shall have jurisdiction to review the determination of the governing body which court shall hear the cause de novo on the record below and affirm, modify or set aside such determination.

Either party may supplement the record with additional testimony subject to the rules of evidence.

L.1971, c. 200, s. 1, eff. July 1, 1971. Amended by L.1981, c. 75, s. 3, eff. March 23, 1981.

40A:9-161. Removal of officers and employees; procedure; exceptions

In any municipality wherein Title 11 (Civil Service) of the Revised Statutes is not operative and unless otherwise provided by law, no officer or employee of such municipality who has tenure in office shall be removed from his office or position except upon written charges, signed by the person making such charges. The complaint shall be filed with the governing body of such municipality and a copy thereof shall be served upon the officer or employee so charged, with notice of a designated time and place for the hearing thereon which shall be not less than 10 days nor later than 30 days from the service of the complaint.

The officer or employee so charged and the governing body shall have the right to be represented by counsel and the power to ~~subpena~~ subpoena witnesses and documentary evidence. The governing body shall prescribe rules and regulations for the conduct of the hearing.

No such officer or employee shall be removed from his office or position for political reasons or except as otherwise provided by law, because of a change in the form of government.

The Superior Court shall have jurisdiction to review the determination of the governing body, which court shall hear the cause de novo on the record below and affirm, modify or set aside the determination.

Either party may supplement the record with additional testimony subject to the rules of evidence.

The removal procedures set forth in this section shall not apply to officers for which specific removal procedures are elsewhere provided by law.

L.1971, c. 200, s. 1, eff. July 1, 1971. Amended by L.1981, c. 75, s. 4, eff. March 23, 1981; L.1981, c. 393, s. 27, eff. Jan. 6, 1982.

TITLE 43 PENSIONS AND RETIREMENT AND UNEMPLOYMENT
COMPENSATION

43:21-6 Claims for benefits.

43:21-6. (a) Filing. (1) Claims for benefits shall be made in accordance with such regulations as the Director of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey may approve. Each employer shall post and maintain on his premises printed notices of his subject status, of such design, in such numbers and at such places as the director of the division may determine to be necessary to give notice thereof to persons in the employer's service. Each employer shall give to each individual at the time he becomes unemployed, for any reason,

whether the unemployment is permanent or temporary, a printed copy of benefit instructions. The benefit instructions given to the individual shall include, but not be limited to, the following information: (A) the date upon which the individual becomes unemployed, and, in the case that the unemployment is temporary, to the extent possible, the date upon which the individual is expected to be recalled to work; and (B) that the individual may lose some or all of the benefits to which he is entitled if he fails to file a claim in a timely manner. Both the aforesaid notices and instructions, including information detailing the time sensitivity of filing a claim, shall be supplied by the division to employers without cost to them. Nothing in this section shall be construed so as to require an employer to re-hire an individual formerly in the employer's service.

(2) Any claimant may choose to certify, cancel or close his claim for unemployment insurance benefits at any time, 24 hours a day and seven days a week, via the Internet on a website developed by the division; however, any claim that is certified, cancelled or closed after 7:00 PM will not be processed by the division until the next scheduled posting date.

(b) (1) Procedure for making initial determinations with respect to benefit years commencing on or after January 1, 1953.

A representative or representatives designated by the director of the division and hereafter referred to as a "deputy" shall promptly examine the claim, and shall notify the most recent employing unit and, successively as necessary, each employer in inverse chronological order during the base year. Such notification shall require said employing unit and employer to furnish such information to the deputy as may be necessary to determine the claimant's eligibility and his benefit rights with respect to the employer in question.

In his discretion, the director may appoint special deputies to make initial or subsequent determinations under subsection (f) of R.S.43:21-4 and subsection (d) of R.S.43:21-5.

If any employer or employing unit fails to respond to the request for information within 10 days after the mailing, or communicating by electronic means, of such request, the deputy shall rely entirely on information from other sources, including an affidavit to the best of the knowledge and belief of the claimant with respect to his wages and time worked. Except in the event of fraud, if it is determined that any information in such affidavit is erroneous, no penalty shall be imposed on the claimant.

The deputy shall promptly make an initial determination based upon the available information. The initial determination shall show the weekly benefit amount payable, the maximum duration of benefits with respect to the employer to whom the determination relates, and the ratio of benefits chargeable to the employer's account for benefit years commencing on or after July 1, 1986, and also shall show whether the claimant is ineligible or disqualified for benefits under the initial determination. The claimant and the employer whose account may be charged for benefits payable pursuant to said determination shall be promptly notified thereof.

Whenever an initial determination is based upon information other than that supplied by an employer because such employer failed to respond to the deputy's request for information, such

initial determination and any subsequent determination thereunder shall be incontestable by the noncomplying employer, as to any charges to his employer's account because of benefits paid prior to the close of the calendar week following the receipt of his reply. Such initial determination shall be altered if necessary upon receipt of information from the employer, and any benefits paid or payable with respect to weeks occurring subsequent to the close of the calendar week following the receipt of the employer's reply shall be paid in accordance with such altered initial determination.

The deputy shall issue a separate initial benefit determination with respect to each of the claimant's base year employers, starting with the most recent employer and continuing as necessary in the inverse chronological order of the claimant's last date of employment with each such employer. If an appeal is taken from an initial determination, as hereinafter provided, by any employer other than the first chargeable base year employer or for benefit years commencing on or after July 1, 1986, that employer from whom the individual was most recently separated, then such appeal shall be limited in scope to include only one or more of the following matters:

- (A) The correctness of the benefit payments authorized to be made under the determination;
- (B) Fraud in connection with the claim pursuant to which the initial determination is issued;
- (C) The refusal of suitable work offered by the chargeable employer filing the appeal;
- (D) Gross misconduct as provided in subsection (b) of R.S.43:21-5.

The amount of benefits payable under an initial determination may be reduced or canceled if necessary to avoid payment of benefits for a number of weeks in excess of the maximum specified in subsection (d) of R.S.43:21-3.

Unless the claimant or any interested party, within seven calendar days after delivery of notification of an initial determination or within 10 calendar days after such notification was mailed to his or their last-known address and addresses, files an appeal from such decision, such decision shall be final and benefits shall be paid or denied in accordance therewith, except for such determinations as may be altered in benefit amounts or duration as provided in this paragraph. Benefits payable for periods pending an appeal and not in dispute shall be paid as such benefits accrue; provided that insofar as any such appeal is or may be an appeal from a determination to the effect that the claimant is disqualified under the provisions of R.S.43:21-5 or any amendments thereof or supplements thereto, benefits pending determination of the appeal shall be withheld only for the period of disqualification as provided for in said section, and notwithstanding such appeal, the benefits otherwise provided by this act shall be paid for the period subsequent to such period of disqualification; and provided, also, that if there are two determinations of entitlement, benefits for the period covered by such determinations shall be paid regardless of any appeal which may thereafter be taken, but no employer's account shall be charged with benefits so paid, if the decision is finally reversed.

(2) Procedure for making initial determinations in certain cases of concurrent employment, with respect to benefit years commencing on or after January 1, 1953 and prior to benefit years

commencing on or after July 1, 1986.

Notwithstanding any other provisions of this Title, if an individual shows to the satisfaction of the deputy that there were at least 13 weeks in his base period in each of which he earned wages from two or more employers totaling \$30.00 or more but in each of which there was no single employer from whom he earned as much as \$100.00, then such individual's claim shall be determined in accordance with the special provisions of this paragraph. In such case, the deputy shall determine the individual's eligibility for benefits, his average weekly wage, weekly benefit rate and maximum total benefits as if all his base year employers were a single employer. Such determination shall apportion the liability for benefit charges thereunder to the individual's several base year employers so that each employer's maximum liability for charges thereunder bears approximately the same relation to the maximum total benefits allowed as the wages earned by the individual from each employer during the base year bears to his total wages earned from all employers during the base year. Such initial determination shall also specify the individual's last date of employment within the base year with respect to each base year employer, and such employers shall be charged for benefits paid under said initial determination in the inverse chronological order of such last date of employment.

(3) Procedure for making subsequent determinations with respect to benefit years commencing on or after January 1, 1953. The deputy shall make determinations with respect to claims for benefits thereafter in the course of the benefit year, in accordance with any initial determination allowing benefits, and under which benefits have not been exhausted, and each notification of a benefit payment shall be a notification of an affirmative subsequent determination. The allowance of benefits by the deputy on any such determination, or the denial of benefits by the deputy on any such determination, shall be appealable in the same manner and under the same limitations as is provided in the case of initial determinations.

(c) Appeals. Unless such appeal is withdrawn, an appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and the determination. The parties shall be duly notified of such tribunal's decision, together with its reasons therefor, which shall be deemed to be the final decision of the board of review, unless further appeal is initiated pursuant to subsection (e) of this section within 10 days after the date of notification or mailing of the decision for any decision made on or before December 1, 2010, or within 20 days after the date of notification or mailing of such decision for any decision made after December 1, 2010.

(d) Appeal tribunals. To hear and decide disputed benefit claims, including appeals from determinations with respect to demands for refunds of benefits under subsection (d) of R.S.43:21-16, the director with the approval of the Commissioner of Labor and Workforce Development shall establish impartial appeal tribunals consisting of a salaried body of examiners under the supervision of a Chief Appeals Examiner, all of whom shall be appointed pursuant to the provisions of Title 11A of the New Jersey Statutes, Civil Service and other applicable statutes.

(e) Board of review. The board of review may on its own motion affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence previously submitted in such case,

or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The board of review shall permit such further appeal by any of the parties interested in a decision of an appeal tribunal which is not unanimous and from any determination which has been overruled or modified by any appeal tribunal. The board of review may remove to itself or transfer to another appeal tribunal the proceedings on any claim pending before an appeal tribunal. Any proceedings so removed to the board of review shall be heard by a quorum thereof in accordance with the requirements of subsection (c) of this section. The board of review shall promptly notify the interested parties of its findings and decision.

(f) Procedure. The manner in which disputed benefit claims, and appeals from determinations with respect to (1) claims for benefits and (2) demands for refunds of benefits under subsection (d) of R.S.43:21-16 shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with rules prescribed by the board of review for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

(g) Witness fees. Witnesses ~~subpenaed~~ subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the director. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this chapter (R.S.43:21-1 et seq.).

(h) Court review. Any decision of the board of review shall become final as to any party upon the mailing of a copy thereof to such party or to his attorney, or upon the mailing of a copy thereof to such party at his last-known address. The Division of Unemployment and Temporary Disability Insurance and any party to a proceeding before the board of review may secure judicial review of the final decision of the board of review. Any party not joining in the appeal shall be made a defendant; the board of review shall be deemed to be a party to any judicial action involving the review of, or appeal from, any of its decisions, and may be represented in any such judicial action by any qualified attorney, who may be a regular salaried employee of the board of review or has been designated by it for that purpose, or, at the board of review's request, by the Attorney General.

(i) Failure to give notice. The failure of any public officer or employee at any time heretofore or hereafter to give notice of determination or decision required in subsections (b), (c) and (e) of this section, as originally passed or amended, shall not relieve any employer's account of any charge by reason of any benefits paid, unless and until that employer can show to the satisfaction of the director of the division that the said benefits, in whole or in part, would not have been charged or chargeable to his account had such notice been given. Any determination hereunder by the director shall be subject to court review.

(j) With respect to benefit payments made on or after October 22, 2013, an employer's account shall not be relieved of charges related to a benefit payment that was made erroneously from the division if it is determined that:

(1) The erroneous benefit payment was made because the employer, or an agent of the employer, failed to respond in a timely or adequate manner to a request from the division for information related to the claim for benefits; and

(2) The employer, or an agent of the employer, has established a pattern of failing to respond in a timely or adequate manner to requests from the division for information related to claims for benefits.

Determinations of the division prohibiting the relief of charges pursuant to this subsection shall be subject to appeal in the same manner as other determinations of the division related to the charging of employer accounts.

For purposes of subsection (j) of this section:

"Erroneous benefit payment" means a benefit payment that, except for the failure by the employer, or an agent of the employer, to respond in a timely or adequate manner to a request from the division for information with respect to the claim for benefits, would not have been made; and

"Pattern of failing" means repeated documented failure on the part of the employer, or an agent of the employer, to respond to requests from the division to the employer or employer's agent for information related to a claim for benefits, except that an employer, or an agent of an employer, shall not be determined to have engaged in a "pattern of failing" if the number of failures to respond to requests from the division for information related to claims for benefits during the previous 365 calendar days is less than three, or if the number of failures is less than two percent of the number of requests from the division, whichever is greater.

(k) The Department of Labor and Workforce Development shall establish and maintain a procedure by which personnel access rights to the department's primary system for unemployment claims receipt and processing are comprehensively reviewed every calendar quarter. The procedure shall include an evaluation of access needs to the primary unemployment claims receipt and processing system for all department personnel and the adjustment, addition, or deletion of access rights for department personnel based on the quarterly review.

amended 1945, c.308, s.2; 1950, c.167, s.1; 1951, c.338, s.1; 1952, c.187, s.3; 1955, c.203, s.2; 1961, c.43, s.4; 1974, c.86, s.4; 1975, c.385; 1977, c.307, s.3; 1984, c.24, s.4; 2010, c.82, s.1; 2011, c.32, s.1; 2011, c.87, s.1; 2013, c.148; 2015, c.42; 2016, c.62.

43:21-11 Administration.

43:21-11. (a) Duties and powers of the Department of Labor and Workforce Development. The department shall have power and authority to adopt, amend, or rescind such rules and regulations, require such reports, make such investigations, and take such other action as it

deems necessary or suitable or to administer this chapter; provided that the Commissioner of Labor and Workforce Development may delegate such power and authority, subject to his ultimate supervision and control. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of this chapter, which the department shall prescribe. The department shall determine its own organization and methods of procedure, in accordance with the provisions of this chapter. Whenever the department believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the Governor and the Legislature, and make recommendations with respect thereto.

(b) Regulations and general and special rules. General and special rules may be adopted, amended, or rescinded by the department. General rules shall become effective 10 days after filing with the Secretary of State and publication in one or more newspapers of general circulation in this State. Special rules shall become effective 10 days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the department and shall become effective in the manner and at the time prescribed by the department.

(c) Publication. The department shall cause to be printed for distribution to the public the text of this chapter, the department's regulations and general rules, its annual reports to the Governor, and any other material the department deems relevant and suitable and shall furnish the same to any person upon application therefor.

(d) Personnel. Subject to other provisions of this chapter, the department is authorized to appoint (subject to the provisions of Title 11, Civil Service), fix the compensation, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties under R.S. 43:21-1 et seq. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis from lists of eligible persons prepared by the Civil Service Commission, in accordance with the provisions of Title 11, Civil Service, except that any attorney, now or hereafter in office or position of legal assistant for the department, shall be placed in the exempt class of the civil service and thereafter shall not be subject to removal except for cause and then only in accordance with the provisions of Title 11, Civil Service; provided, however, that nothing herein shall be construed to apply to any attorney designated as special counsel in accordance with the provisions of sections 43:21-6, subsection (h), and 43:21-17. The division shall not employ or pay any person who is an officer or committee member of any political party organization. The commissioner may delegate to any such person so appointed such power and authority as he deems reasonable and proper for the effective administration of this chapter, and may in his discretion bond any person handling moneys or signing checks hereunder.

(e) Employment Security Council. There shall be within the department an Employment Security Council, as established and constituted under the Department of Labor and Industry Act of 1948 (P.L.1948, c. 446; C. 34:1A-1 et seq.).

(f) Employment stabilization. The department, with the advice and aid of the Employment

Security Council, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts, and the State, of reserves for public works to be used in times of business depression and unemployment; to promote the re-employment of unemployed workers throughout the State in every other way that may be feasible, and to these ends to carry on and publish the records of investigations and research studies.

(g) Records and reports. Each employing unit shall keep true and accurate employment records, containing such information as may be prescribed. Such records shall be open to inspection and be subject to being copied by the director of the division and the controller or their authorized representatives at any reasonable time. The department may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which are deemed necessary for the effective administration of this chapter. Under such rules and regulations as may be adopted by the department, reports relative to wages and separation from employment may be required from any employer or employing unit at the time such employer or employing unit suspends business operations in this State, or from any employer or employing unit which fails to cooperate in submitting promptly the wage and employment data which may be required under paragraph (2) of subsection (b) of section 43:21-6 of this Title. If the nature of such suspension is temporary or in the nature of a transfer, then the employer or employing unit may be excused from furnishing such a termination report upon assurances that proper arrangements have been made to supply any information which may be required under paragraph (2) of subsection (b) of section 43:21-6 of this Title. The department may require from any employer or employing unit reports relative to wages and separation in such manner and at such time as may be necessary for the effective administration of this chapter.

All records, reports and other information obtained from employers and employees under this chapter, except to the extent necessary for the proper administration of this chapter, shall be confidential and shall not be published or open to public inspection other than to public employees in the performance of their public duties, and shall not be subject to ~~subpena~~ subpoena or admissible in evidence in any civil action or proceeding other than one arising under this chapter, but any claimant at a hearing before an appeal tribunal, the division or the board of review shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Any officer or employee of the department who violates any provision of this section shall be liable to a fine of \$200.00, to be recovered in a civil action in the name of the division, said fine when recovered to be paid to the unemployment compensation auxiliary fund for the use of said fund.

(h) Oaths and witnesses. In the discharge of the duties imposed by this chapter, the controller, the appeal tribunal and any duly authorized representative or member of the division, the director or any deputy director thereof or member of the board of review shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue ~~subpenas~~ subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with a disputed claim or the administration of this chapter. Witnesses ~~subpenaed~~ subpoenaed pursuant to this section shall in the discretion of the department be allowed fees at a rate to be fixed by it. Such fees

shall be deemed a part of the expense of administering this chapter.

(i) ~~Subpenas~~ Subpoenas. In case of contumacy by or refusal to obey a ~~subpena~~ subpoena issued to any person, any court of this State within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the department or its duly authorized representative, or the board of review, shall have jurisdiction to issue to such person an order requiring such person to appear before the board of review or a member thereof, the department or its duly authorized representative, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his power so to do, in obedience to a ~~subpena~~ subpoena of the division or of the board of review shall be punished by a fine of not more than \$200.00 or by imprisonment for not longer than 60 days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(j) Protection against self-incrimination. No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda and other records before the department or the board of review or in obedience to the ~~subpena~~ subpoena of a member of the department or the board of review or a member thereof, or any duly authorized representative thereof in any cause or proceeding before the department, the board of review or a member thereof, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(k) State-Federal cooperation. In the administration of this chapter the department shall cooperate to the fullest extent, consistent with the provisions of this chapter, with the United States Department of Labor to secure to this State and its citizens all advantages available under the provisions of the Social Security Act (42 U.S.C. s. 301 et seq.), as amended, the Federal Unemployment Tax Act (26 U.S.C. s. 3301 et seq.), as amended, and the Wagner-Peyser Act (29 U.S.C. s. 49 et seq.), as amended; shall make such reports, in such form and containing such information as the United States Secretary of Labor may from time to time require; and shall comply with such provisions as the United States Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the United States Secretary of Labor governing the expenditure of such sums as may be allotted and paid to this State under any of such federal acts.

Upon request therefor, the department shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of benefits and such

recipient's rights to further benefits under this chapter.

The department may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

The department is authorized to make such investigations and exercise such of the other powers provided herein with respect to the administration of this chapter and to transmit such information and make available such services and facilities to the agency charged with the administration of any State or federal unemployment insurance or public employment service law as it deems necessary or appropriate to facilitate the administration of such law and to accept and utilize information, services and facilities made available to this State by such agency.

The department shall adopt regulations prescribed by the United States Secretary of Labor to address state unemployment tax avoidance and to insure that the transfer or acquisition of a business is not done for the specific purpose of avoiding higher contribution rates.

(l) The controller shall establish procedures to identify employers who engage in the transfer or acquisition of a business, trade or organization for the purposes of achieving an unemployment tax rate unrelated to employment experience.

Amended 1939, c.94, s.4; 1940, c.252, s.2; 1952, c.187, s.5; 1961, c.43, s.7; 1984, c.24, s.8; 2005, c.239, s.2.

TITLE 45 PROFESSIONS AND OCCUPATIONS

45:1-17. Powers of Attorney General to implement act and administer law enforcement activities of boards

In implementing the provisions of this act and administering the law enforcement activities of those professional and occupational boards located within the Division of Consumer Affairs, the Attorney General may:

a. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate rules and regulations consistent with the provisions of this act and the Administrative Procedure Act, P.L.1968, c. 410 (C. 52:14B-1 et seq.) governing the procedure for administrative hearings before all boards within the Division of Consumer Affairs. Such rules and regulations shall govern administrative complaints, answers thereto, issuance of ~~subpenas~~ subpoenas, appointment of hearing examiners, adjournments, submission of proposed findings of fact and conclusions of law, the filing of briefs, and such other procedural aspects of administrative hearings before the boards as the Attorney General may deem necessary; provided, however, nothing herein authorized shall be construed to require the Attorney General to promulgate rules regarding prehearing investigative procedures.

b. After advice to the board or boards in question of his intent to proceed under this section,

and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate substantive rules and regulations consistent with the provisions of any statute governing the activities of any licensing agency, board or committee located within the Division of Consumer Affairs, which shall be limited to disciplinary matters and arbitrary restrictions on initial licensure. In addition to promulgating such rules and regulations, the Attorney General may direct that any proposed or existing regulation be amended, abandoned or repealed. Prior to the final adoption of any regulation affecting the activities of any professional or occupational licensing agency, board or committee located within the division and prior to the issuance of any directive to amend, abandon or repeal any regulation, the Attorney General or his designee shall first consult with the agency, board or committee whose activities are affected regarding the proposed action.

c. After a full consideration of all relevant facts and the applicable law, may direct the initiation of any appropriate enforcement action by a professional or occupational licensing board or set aside, modify or amend, as may be necessary, any action or decision of a licensing agency, board or committee located within the Division of Consumer Affairs; provided, however, no such action shall be directed by the Attorney General in reviewing the action or decision of an agency, board or committee unless such action or decision is contrary to applicable law.

L.1978, c. 73, s. 4, eff. July 13, 1978.

45:1-19. Failure or refusal to file statement or report, refuse access to premises or failure to obey ~~subpena~~; penalty

If any person shall fail or refuse to file any statement or report or refuse access to premises from which a licensed profession or occupation is conducted in any lawfully conducted investigative matter or fail to obey a ~~subpena~~ subpoena issued pursuant to this act, the Attorney General may apply to the Superior Court and obtain an order:

- a. Adjudging such person in contempt of court; or
- b. Granting such other relief as may be required; or
- c. Suspending the license of any such person unless and until compliance with the ~~subpena~~ subpoena or investigative demand is effected.

L.1978, c. 73, s. 6, eff. July 13, 1978.

45:22A-32. Powers of agency

a. The agency may:

- (1) Accept registrations filed in this State, in other states or with the Federal Government;

(2) Contract with similar agencies in this State or other jurisdictions to perform investigative functions;

(3) Accept grants in aid from any governmental or other source;

(4) Cooperate with similar agencies in this State or in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules and common administrative practices;

(5) Grant exemptions pursuant to its rules and regulations;

(6) Make necessary public or private investigations within or outside of this State to determine whether any person has violated or is about to violate this act or any rule or order hereunder, or to aid in the enforcement of this act or in the prescribing of rules and forms hereunder;

(7) Require or permit any person to file a statement in writing, under oath or otherwise, as the agency determines, as to all the facts and circumstances concerning the matter to be investigated;

(8) For the purpose of any investigation or proceeding under this act, the agency or any officer designated by rule, may administer oaths, or affirmations, and upon its own motion or upon request of any party may ~~subpena~~ subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

(9) Upon failure to obey a ~~subpena~~ subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the agency may apply to the Superior Court for an order compelling compliance.

L.1977, c. 419, s. 12.

TITLE 46 PROPERTY

46:3B-6. Investigation of allegations; hearings; powers; denial, suspension or revocation of certificate; hearing; grounds

a. The commissioner, upon the complaint of an aggrieved person, may conduct investigations into the allegations made against any builder required to be registered under this act. In pursuit of such investigations, the commissioner shall be authorized to hold hearings in accordance with the provisions of the Administrative Procedures Act (P.L.1968, c. 410, C. 52:14B-1 et seq.) applicable to contested cases, to ~~subpena~~ subpoena witnesses and compel their attendance, to require the production of papers, records or documents, administer oaths or affirmations to witnesses, to inspect such relevant books, papers, records or documents of such builder at his place of business during business hours, and to conduct inspections of new home construction sites owned by a builder or in which a builder has an ownership interest.

b. The commissioner may deny, suspend or revoke any certificate of registration, after affording the registrant or applicant the opportunity for a hearing in accordance with the provisions of the Administrative Procedures Act (P.L.1968, c. 410, C. 52:14B-1 et seq.) applicable to contested cases, if the registrant or applicant has:

(1) Willfully made a misstatement of a material fact in his application for registration or renewal;

(2) Willfully committed fraud in the practice of his occupation;

(3) Practiced his occupation in a grossly negligent manner;

(4) Willfully violated any applicable building code to substantial degree;

(5) Failed to continue his participation in the new home warranty security fund or an approved alternate new home warranty security program after proper notice from the commissioner in writing by certified mail; or

(6) Violated any provision of this act or any rule or regulation adopted pursuant thereto, after proper notice from the commissioner in writing by certified mail.

L.1977, c. 467, s. 6.

TITLE 49 SALE OF SECURITIES

49:5-7. Investigations

a. The bureau may make such investigations within or outside of this State as it deems necessary to determine whether any person has violated or is about to violate the provisions of this act or any order of the bureau chief, and may require any person subject to the investigation to pay the actual costs of the investigation including \$50.00 per day for the time of the investigator. The bureau chief shall have power to issue ~~subpenas~~ subpoenas and ~~subpenas~~ subpoenas duces tecum to require the attendance of any person and the production of any papers for the purposes of such investigation.

b. If, in the course of any investigation or hearing conducted by the bureau chief pursuant to

this act, a person refuses to answer a question or questions or produce evidence of any kind on the ground that he will be exposed to criminal prosecution or penalty or to forfeiture of his estate thereby, the bureau chief may order the person to answer the question or questions or produce the requested evidence and confer immunity as in this section provided. If upon issuance of such an order, the person complies therewith, he shall be immune from having such responsive answer given by him or such responsive evidence produced by him, or evidence derived therefrom used to expose him to criminal prosecution or penalty or to a forfeiture of his estate, except that such person may nevertheless be prosecuted for any perjury committed in such answer or in producing such evidence, or for contempt for failing to give an answer or produce evidence in accordance with the order of the bureau chief and any such answer given or evidence produced shall be admissible against him upon any criminal investigation, proceeding or trial against him for such perjury, or upon any investigation, proceeding or trial against him for such contempt.

L.1977, c. 76, s. 7, eff. April 27, 1977.

49:5-12. Injunctions

a. Whenever it appears to the bureau chief that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this act or any regulation or order adopted under this act, the bureau chief may investigate and issue orders and notices including cease and desist orders and notices. In addition to all other remedies, he may bring an action in any Superior Court of this State in the name and on behalf of the State against any person or persons participating in or about to participate in a violation, to enjoin those persons from continuing or doing any act in violation of this act or to enforce compliance. In any court proceedings, the bureau chief may apply for and on due showing be entitled to have issued the court's ~~subpena~~ subpoena requiring the appearance of any defendant and the defendant's employees or agents and the production of documents, books and records as may appear necessary for the hearing of the petition, to testify and give evidence concerning the acts or conduct or things complained of in the action. Upon a proper showing, the court may grant a permanent or preliminary injunction or temporary restraining order or may order rescission of any sales, tenders for sale, purchase or tenders for purchase of equity securities determined to be unlawful under this act or any regulation or order of the bureau chief.

b. Whenever any person has engaged or is about to engage in any act or practice constituting a violation of this act or any regulation or order adopted thereunder, the offeror, target company or any record or beneficial owner of an equity security of the target company may bring an action to enjoin that person from continuing or doing any act in violation of this act or to enforce compliance. Upon a proper showing, the court may grant a permanent or preliminary injunction or temporary restraining order or may order rescission of any sales, tenders for sale, purchases or tenders for purchase of equity securities determined to be unlawful under this act or any regulation or order of the bureau chief.

L.1977, c. 76, s. 12, eff. April 27, 1977.

51:1-54.1. Issuance of ~~subpenas~~ subpoenas

The State superintendent shall have the power to issue ~~subpenas~~ subpoenas to compel the production of any pertinent records, books, or documents or the attendance of witnesses in any matter pertaining to his duties under Title 51 of the Revised Statutes and other statutes relating to weights and measures and shall have the power to administer oaths in taking testimony. ~~Subpenas~~ Subpoenas shall be issued under the seal of the State superintendent and shall be served in the same manner as ~~subpenas~~ subpoenas issued from any court in this State. The failure of any person to obey a ~~subpena~~ subpoena may result in the State superintendent's applying to the Superior Court for appropriate relief.

L. 1986, c. 167, s. 21, eff. Dec. 3, 1986.

TITLE 52 STATE GOVERNMENT, DEPARTMENTS AND OFFICERS

52:9M-12. Commission's powers; witnesses

12. With respect to the performance of its functions, duties and powers and subject to the limitation contained in paragraph d. of this section, the commission shall be authorized as follows:

a. To conduct any investigation authorized by this act at any place within the State; and to maintain offices, hold meetings and function at any place within the State as it may deem necessary;

b. To conduct private and public hearings, and to designate a member of the commission to preside over any such hearing; no public hearing shall be held except after adoption of a resolution by majority vote, and no public hearing shall be held by the commission until after the Attorney General and the appropriate county prosecutor or prosecutors shall have been given at least seven days' written notice of the commission's intention to hold such a public hearing and afforded an opportunity to be heard in respect to any objections they or either of them may have to the commission's holding such a hearing;

c. To administer oaths or affirmations, ~~subpena~~ subpoena witnesses, compel their attendance, examine them under oath or affirmation, and require the production of any books, records, documents or other evidence it may deem relevant or material to an investigation; and the commission may designate any of its members or any member of its staff to exercise any such powers;

d. Unless otherwise instructed by a resolution adopted by a majority of the members of the commission, every witness attending before the commission shall be examined privately and the commission shall not make public the particulars of such examination. The commission shall not have the power to take testimony at a private hearing or at a public hearing unless at least two of its members are present at such hearing, except that the commission shall have the power to

conduct private hearings, on an investigation previously undertaken by a majority of the members of the commission, with one commissioner present, when so designated by resolution;

e. Witnesses summoned to appear before the commission shall be entitled to receive the same fees and mileage as persons summoned to testify in the courts of the State.

If any person ~~subpenaed~~ subpoenaed pursuant to this section shall neglect or refuse to obey the command of the ~~subpena~~ subpoena, any judge of the Superior Court or any municipal court may, on proof by affidavit of service of the ~~subpena~~ subpoena, payment or tender of the fees required and of refusal or neglect by the person to obey the command of the ~~subpena~~ subpoena, issue a warrant for the arrest of said person to bring him before the judge, who is authorized to proceed against such person as for a contempt of court.

L.1968,c.266,s.12; amended 1969,c.67,s.1; 1979,c.254,s.11; 1991,c.91,s.494.

52:9M-15 Disclosure of information, violation, penalties; privilege, certain; OPRA not applicable.

15. a. Any person conducting or participating in any examination or investigation who shall disclose or any person who, coming into possession of or knowledge of the substance of any examination or investigation, shall disclose, or any person who shall cause, encourage or induce a person, including any witness or informant, to disclose, other than as authorized or required by law, to any person other than the commission or an officer having the power to appoint one or more of the commissioners the name of any witness examined, or any information obtained or given upon such examination or investigation, except as directed by the Governor or commission, or any person other than a member or employee of the commission or any person entitled to assert a legal privilege who, coming into possession of or knowledge of the substance of any pending examination or investigation who fails to advise the Attorney General and the commission of such possession or knowledge and to deliver to the Attorney General and the commission any documents or materials containing such information, shall be guilty of a misdemeanor until September 1, 1979 when such person shall be guilty of a crime of the third degree. Any member or employee of the commission who shall violate this section shall be dismissed from his office or discharged from his employment.

b. Any statement made by a member of the commission or an employee thereof relevant to any proceedings before or investigative activities of the commission shall be absolutely privileged and such privilege shall be a complete defense to any action for libel or slander; provided, however, that nothing in this subsection shall be deemed to grant immunity for conduct that was outside the scope of his employment or constituted a crime, actual fraud, actual malice or willful misconduct.

c. Nothing contained in this section shall in any way prevent the commission from furnishing information or making reports, as required by this act, or from furnishing information to the Legislature, or to a standing reference committee thereof, pursuant to a resolution duly adopted by a standing reference committee or pursuant to a duly authorized ~~subpena~~ subpoena or

~~subpena~~ subpoena duces tecum, provided, however, that nothing herein shall be deemed to preclude the commission from seeking from a court of competent jurisdiction a protective order to avoid compliance with such ~~subpena~~ subpoena or duces tecum.

d. Nothing in P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented by P.L.2001, c.404, shall be construed to require the commission to disclose any information acquired or any records created, except as provided by this section.

L.1968,c.266,s.15; amended 1969, c.67, s.3; 1979, c.254, s.14; 1996, c.44, s.5; 2005, c.58, s.3.

52:27D-124 Powers of the commissioner.

6. The commissioner shall have all the powers necessary or convenient to effectuate the purposes of this act, including, but not limited to, the following powers in addition to all others granted by this act:

a. To adopt, amend and repeal, after consultation with the code advisory board, rules: (1) relating to the administration and enforcement of this act and (2) the qualifications or licensing, or both, of all persons employed by enforcing agencies of the State to enforce this act or the code, except that, plumbing inspectors shall be subject to the rules adopted by the commissioner only insofar as such rules are compatible with such rules and regulations, regarding health and plumbing for public and private buildings, as may be promulgated by the Public Health Council in accordance with Title 26 of the Revised Statutes.

b. To enter into agreements with federal and State of New Jersey agencies, after consultation with the code advisory board, to provide insofar as practicable (1) single-agency review of construction plans and inspection of construction and (2) intergovernmental acceptance of such review and inspection to avoid unnecessary duplication of effort and fees. The commissioner shall have the power to enter into such agreements although the federal standards are not identical with State standards; provided that the same basic objectives are met. The commissioner shall have the power through such agreements to bind the State of New Jersey and all governmental entities deriving authority therefrom.

c. To take testimony and hold hearings relating to any aspect of or matter relating to the administration or enforcement of this act, including but not limited to prospective interpretation of the code so as to resolve inconsistent or conflicting code interpretations, and, in connection therewith, issue ~~subpena~~ subpoena to compel the attendance of witnesses and the production of evidence. The commissioner may designate one or more hearing examiners to hold public hearings and report on such hearings to the commissioner.

d. To encourage, support or conduct, after consultation with the code advisory board, educational and training programs for employees, agents and inspectors of enforcing agencies, either through the Department of Community Affairs or in cooperation with other departments of State government, enforcing agencies, educational institutions, or associations of code officials.

e. To study the effect of this act and the code to ascertain their effect upon the cost of building construction and maintenance, and the effectiveness of their provisions for insuring the health, safety, and welfare of the people of the State of New Jersey.

f. To make, establish and amend, after consultation with the code advisory board, such rules as may be necessary, desirable or proper to carry out his powers and duties under this act.

g. To adopt, amend, and repeal rules and regulations providing for the charging of and setting the amount of fees for the following code enforcement services, licenses or approvals performed or issued by the department, pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.):

(1) Plan review, construction permits, certificates of occupancy, demolition permits, moving of building permits, elevator permits and sign permits; and

(2) Review of applications for and the issuance of licenses certifying an individual's qualifications to act as a construction code official, subcode official or assistant under this act.

(3) (Deleted by amendment, P.L.1983, c.338).

h. To adopt, amend and repeal rules and regulations providing for the charging of and setting the amount of construction permit surcharge fees to be collected by the enforcing agency and remitted to the department to support those activities which may be undertaken with moneys credited to the Uniform Construction Code Revolving Fund.

i. To adopt, amend and repeal rules and regulations providing for:

(1) Setting the amount of and the charging of fees to be paid to the department by a private agency for the review of applications for and the issuance of approvals authorizing a private agency to act as an on-site inspection and plan review agency or an in-plant inspection agency;

(2) (Deleted by amendment, P.L.2005, c.212).

(3) (Deleted by amendment, P.L.2005, c.212).

j. To enforce and administer the provisions of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and the code promulgated thereunder, and to prosecute or cause to be prosecuted violators of the provisions of that act or the code promulgated thereunder in administrative hearings and in civil proceedings in State and local courts.

k. To monitor the compliance of local enforcing agencies with the provisions of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), to order corrective action as may be necessary where a local enforcing agency is found to be failing to carry out its responsibilities under that act, to supplant or replace the local enforcing agency for a specific project, and to order it dissolved and replaced by the department where the local enforcing

agency repeatedly or habitually fails to enforce the provisions of the "State Uniform Construction Code Act."

1. To adopt, amend, and repeal rules and regulations implementing the provisions of P.L.1999, c.15, P.L.2003, c.44, and section 1 of P.L.2015, c.146 (C.52:27D-123f) concerning the installation and maintenance of carbon monoxide sensors.

L.1975, c.2217, s.6; amended 1979, c.121, s.1; 1983, c.338; 1985, c.21; 1993, c.47; 1999, c.15, s.4; 2003, c.44, s.2; 2005, c.212, s.1; 2015, c.146, s.2.

52:27D-157. Powers of department

The department is hereby granted, has, and may exercise all powers necessary and appropriate to effectuate the purposes of this act, including but not limited to the following:

- a. To sue and be sued;
- b. To maintain an office at such place or places within the State as it may determine;
- c. To acquire, hold, use and dispose of its income, revenues, funds and moneys;
- d. To apply for and accept gifts, grants, or loans from the United States of America or any of its agencies or instrumentalities, or from any other source, public or private, and to comply, subject to the provisions of this act, with the terms and conditions of such gifts, grants, or loans;
- e. To request the assistance and avail itself of the services of employees of any department or agency of the State who may be helpful and available;
- f. To provide, upon request, advisory, consultive, training, and educational services and technical assistance to any neighborhood preservation agency; and to assist any agency in applying for the qualifying for grants and loans pursuant to this act;
- g. To make and enter into all contracts, agreements, and other arrangements with, or to hire as employees such agents, professional advisors, and counselors, including without limitation, financial consultants, accountants, attorneys, architects, engineers, real estate consultants, appraisers, housing construction and financing experts, as are deemed necessary or advisable, in performing its duties and exercising its powers under this act, which expense may be considered as a cost of administration;
- h. To conduct examinations and hearings and to hear testimony and take proof, under oath of affirmation, or any matter material for the department's information and necessary to carry out the provisions of this act;
- i. To issue ~~subpenas~~ subpoenas requiring the attendance of witnesses and the production of books and papers pertinent to any hearing;

j. To apply to any court, having territorial jurisdiction of the offense, to have punished for contempt any witness who refuses to obey a ~~subpena~~ subpoena, or who refuses to be sworn or affirmed to testify, or who is guilty of any contempt after summons to appear;

k. To adopt, modify, repeal, and enforce such rules and regulations as may be necessary to carry out the purposes of this act, including regulations relating to: the administration of the State fund, the local fund, interest rates, income limitations, and notwithstanding any statute, rule or regulation to the contrary, the length of any loan term under either the State or local fund;

l. To enter into and enforce any contract or agreement with the Federal Government, any neighborhood preservation agency, rehabilitation lender or other entity performing duties and exercising power under this act;

m. To make direct loans and grants from the State fund to any neighborhood preservation agency, subject to affirmance by the commissioner of the findings pursuant to subsection 7a. of this act and to such other conditions as the commissioner may deem appropriate;

n. To enter into, and enforce any contract or agreement with the Federal government, any neighborhood preservation agency, rehabilitation lender or other entity to act for, in behalf of, and in cooperation with the department, with respect to undertaking, originating, servicing or processing the housing rehabilitation loans and grants of the State fund, under such terms and conditions as are agreed upon between the parties;

o. To fix and revise from time to time and charge and collect fees and charges in connection with loans or grants made or other services provided by the department pursuant to this act;

p. To use the State fund to invest in, purchase, or make commitments to purchase, and take assignments from neighborhood preservation agencies, of notes and mortgages evidencing housing rehabilitation loans in this State, upon such terms and conditions as the commissioner may determine; and

q. To sell, at public or private sale, with or without public bidding, any note, mortgage or other obligation held by the department.

L.1975, c. 249, s. 6, eff. Oct. 30, 1975.

52:27D-348. Investigatory powers

a. The commissioner or his designee may, as often as he reasonably deems necessary, conduct an investigation to determine whether any person has violated or is about to violate any provision of this act or to aid in the enforcement of this act or in the prescribing of rules and forms hereunder.

b. For the purpose of any investigation or proceeding under this act, the commissioner or his designee may administer oaths and affirmations, ~~subpena~~ subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the commissioner deems relevant or material to the inquiry.

L. 1986, c. 103, s. 19.

52:27F-20. ~~Subpena~~ Subpoena; power to issue; enforcement

The commissioner may issue ~~subpenas~~ subpoenas requiring the attendance and testimony of witnesses and the production of books, documents, papers, statistics, data, information, and records for the purpose of carrying out any of his responsibilities under this act. Whenever there arises a refusal to honor his ~~subpena~~ subpoena, the commissioner may petition a court of competent jurisdiction for an order requiring the attendance and testimony of a witness or the production of the requested books, documents, papers, statistics, data, information, and records. Any failure to obey such an order issued by a court shall be punished by the court as a contempt thereof.

L.1977, c. 146, s. 18, eff. July 11, 1977.

52:27G-8. Investigations

- a. The office shall establish and implement procedures for conducting investigations.
- b. Acting on complaint, the office may, notwithstanding any referral pursuant to section 7. b. of this act, investigate any act, practice, policy or procedure of any facility or government agency that does or may adversely affect the health, safety, welfare or civil or human rights of any patient, resident or client of a facility.
- c. Acting on its own initiative, the office may investigate any act, practice, policy or procedure of any facility or government agency which it determines does or may adversely affect the health, safety, welfare or civil or human rights of any patient, resident or client in a facility.
- d. In an investigation the office may:
 - (1) Make the necessary inquiries and obtain such information as it deems necessary;
 - (2) Hold private hearings or public hearings;
 - (3) Enter, without notice, and, after notifying the person in charge of its presence, inspect the premises of a facility or government agency and inspect there any books, files, medical records or other records that pertain to patients, residents or clients and are required by law to be maintained by the facility or government agency;

(4) Compel at a specific time and place, by ~~subpena~~ subpoena, the appearance and sworn testimony of any person who the office reasonably believes may be able to give information relating to a matter under investigation; or

(5) Compel any person to produce at a specific time and place, by ~~subpena~~ subpoena any documents, books, records, papers, objects, or other evidence which the office reasonably believes may relate to a matter under investigation.

e. The office need not investigate any complaint where it determines that:

(1) The complaint is trivial, frivolous, vexatious or not made in good faith;

(2) The complaint has been too long delayed to justify present investigation;

(3) The resources available, considering the established priorities, are insufficient for an adequate investigation; or

(4) The matter complained of is not within the investigatory authority of the office.

L.1977, c. 239, s. 8, eff. Sept. 29, 1977.

TITLE 55 TENEMENT HOUSES AND PUBLIC HOUSING

55:13A-6 Powers of commissioner.

6. The commissioner is hereby granted and shall have and exercise, in addition to other powers herein granted, all the powers necessary and appropriate to carry out and execute the purposes of P.L.1967, c.76 (C.55:13A-1 et seq.), including but not limited to, the power:

(a) To provide owners or groups of owners with such advisory consultation and educational services as will assist said owners or groups of owners to discharge their responsibilities under P.L.1967, c.76 (C.55:13A-1 et seq.), and to suggest to said owners or groups of owners methods and procedures by which they may develop and implement health and safety programs;

(b) To enter and inspect, without prior notice, any hotel or multiple dwelling as provided by P.L.1967, c.76 (C.55:13A-1 et seq.), and to make such investigation as is reasonably necessary to carry out the provisions of P.L.1967, c.76 (C.55:13A-1 et seq.);

(c) To administer and enforce the provisions of existing law, and any amendments and supplements thereto, and any rules or regulations promulgated thereunder, concerning the regulation of multiple dwellings, also commonly known as tenements, and hotels;

(d) To issue ~~subpenas~~ subpoenas to any person subject to P.L.1967, c.76 (C.55:13A-1 et seq.) which shall compel attendance at any hearing as a witness and shall compel production of such reports, documents, books or papers, in any part of the State before the commissioner or a member of the department designated by the commissioner, as the commissioner may deem

necessary to implement the purposes of P.L.1967, c.76 (C.55:13A-1 et seq.). In any case where a person neglects or refuses to obey the command of such ~~subpena~~ subpoena, the commissioner may apply ex parte to the Superior Court for an order compelling a person to testify or to produce files, books, papers, documents or other objects in accordance with the ~~subpena~~ subpoena issued by the commissioner and, in addition, said person shall be subject to a penalty of \$100,000.00 for each instance in which the person does not comply with the ~~subpena~~ subpoena issued by the commissioner, said penalty to be recovered pursuant to section 18 of P.L.1967, c.76 (C.55:13A-18);

(e) To issue and promulgate such rules and regulations as the commissioner may deem necessary to implement the purposes of P.L.1967, c.76 (C.55:13A-1 et seq.), which rules and regulations shall have the force and effect of law until revised, repealed or amended from time to time by the commissioner in the exercise of the commissioner's discretion; provided, that any such rules and regulations shall be filed with the Office of Administrative Law;

(f) To enforce and administer the provisions of P.L.1967, c.76 (C.55:13A-1 et seq.), enter complaints against any person violating the provisions thereof, and to prosecute or cause to be prosecuted violations of the provisions thereof in administrative hearings and civil actions in State or local courts;

(g) To assess penalties and to compromise and settle any claim for a penalty for any violation of the provisions of P.L.1967, c.76 (C.55:13A-1 et seq.) in such amount in the discretion of the commissioner as may appear appropriate and equitable under all of the circumstances of said violation in any of the actions or proceedings mentioned in subsection (f) of this section;

(h) To institute an in rem action against the property upon which a violation exists in cases where the owner, after diligent effort, cannot be served;

(i) To institute a quasi in rem action against the owner by attachment of the property upon which a violation exists, followed by service by publication, in cases where the owner, after diligent effort, cannot be served;

(j) To hold and exercise all the rights and remedies available to a judgment creditor where a judgment lien arises as a result of a penalty action or an administrative proceeding taken pursuant to enforcement of P.L.1967, c.76 (C.55:13A-1 et seq.); and

(k) To adopt, amend and repeal rules concerning the qualifications and licensing of persons employed by local agencies and municipalities to enforce this amendatory and supplementary act and fees to cover the cost of any licensing program.

L.1967, c.76, s.6; amended 1970, c.138, s.3; 1987, c.30, s.1; 2013, c.253, s.55.

55:13B-4. Powers of commissioner

The commissioner, to effectuate the provisions and purposes of this act, shall have the power to:

- a. Promulgate and amend rules and regulations in accordance with the Administrative Procedure Act, P.L.1968, c. 410 (C. 52:14B-1 et seq.);
- b. Establish standards governing safety, security, recordkeeping, living conditions and services in rooming and boarding houses;
- c. Issue, suspend and revoke licenses for rooming and boarding houses;
- d. Enter and inspect any such facility without prior notice and review such records as may be required pursuant to this act;
- e. Establish standards for the building, conversion and renovation of all such facilities;
- f. Enforce the provisions of this act by entering complaints against any person in violation thereof through administrative proceedings and civil actions in State and local courts for injunctive relief and for the assessment of penalties, compromise and settle any penalties in such amounts as he may determine to be equitable under the circumstances of the violation, and take such other action as he may deem necessary in accordance with the provisions of this act;
- g. Issue ~~subpenas~~ subpoenas to compel attendance at any hearing in any part of the State, and the presentation of such reports, documents, books and papers as he may deem necessary;
- h. Institute an in rem action against property, or a quasi in rem action against the owner by attachment of a property followed by service by publication, in connection with violations of the provisions of this act, in cases where the owner, after diligent effort, cannot be served; and
- i. Hold and exercise all the rights and remedies available to a judgment creditor where a judgment is entered against an owner or operator as a result of a penalty action or administrative action taken pursuant to enforcement of this act.

L.1979, c. 496, s. 4.

55:14K-5. Powers of agency

In order to carry out the purposes and provisions of this act, the agency, in addition to any powers granted to it elsewhere in this act, shall have the following powers:

- a. To adopt bylaws for the regulation of its affairs and the conduct of its business; to adopt an official seal and alter the same at pleasure; to maintain an office at such place or places within the State as it may designate; to sue and be sued in its own name;
- b. To conduct examinations and hearings and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter material for its information and

necessary to carry out the provisions of this act;

c. To issue ~~subpenas~~ subpoenas requiring the attendance of witnesses and the production of books and papers pertinent to any hearing before the agency, or before one or more of the members of the agency appointed by it to conduct a hearing;

d. To apply to any court, having territorial jurisdiction of the offense, to have punished for contempt any witness who refuses to obey a ~~subpena~~ subpoena, or who refuses to be sworn or affirmed to testify, or who is guilty of any contempt after summons to appear;

e. To acquire by purchase, gift, foreclosure or condemnation any real or personal property, or any interest therein, to enter into any lease of property and to hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage lien interest owned by it or under its control, custody or in its possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption, in property foreclosed by it and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law;

f. To acquire, hold, use and dispose of its income revenues, funds and moneys;

g. To adopt rules and regulations expressly authorized by this act and such additional rules and regulations as shall be necessary or desirable to carry out the purposes of this act. The agency shall adopt regulations which provide for consultation with housing sponsors regarding the formulation of agency rules and regulations governing the operation of housing projects and which require the agency to consult with the affected housing sponsor prior to taking any and all specific proposed agency actions relating to the sponsor's housing project. The agency shall publish all rules and regulations and file them with the Secretary of State;

h. To borrow money or secure credit on a temporary, short-term, interim or long-term basis, and to issue negotiable bonds and to secure the payment thereof and to provide for the rights of the holders thereof;

i. To make and enter into and enforce all contracts and agreements necessary, convenient or desirable to the performance of its duties and the execution of its powers under this act, including contracts or agreements with qualified financial institutions for the servicing and processing of eligible loans owned by the agency;

j. To appoint and employ an executive director, who shall be the chief executive officer of the agency, and additional officers, who need not be members of the agency as the agency deems advisable, and to employ architects, engineers, attorneys, accountants, construction and financial experts and other employees and agents as may be necessary in its judgment and to determine their qualifications, terms of office, duties and compensation; and to promote and discharge such officers, employees and agents, all without regard to the provisions of Title 11 of the Revised Statutes, Civil Service;

k. To contract for and to receive and accept any gifts, grants, loans or contributions from any source, of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this act subject to the conditions upon which the grants and contributions may be made, including, but not limited to, gifts or grants from any department or agency of the United States or the State for payment of rent supplements to eligible families or for the payment in whole or in part of the interest expense for a housing project or for any other purpose consistent with this act;

l. To enter into agreements to pay annual sums in lieu of taxes to any political subdivision of the State with respect to any real property owned or operated directly by the agency;

m. To procure insurance against any loss in connection with its operations, property and other assets (including eligible loans) in the amounts and from the insurers it deems desirable;

n. To the extent permitted under its contract with the holders of bonds of the agency, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other terms of any loan to an institutional lender, eligible loan, loan commitment, contract or agreement of any kind to which the agency is a party;

o. To the extent permitted under its contract with the holders of bonds of the agency, to enter into contracts with any housing sponsor containing provisions enabling the housing sponsor to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges where, by reason of other income or payment from the agency, any department or agency of the United States or the State, these reductions can be made without jeopardizing the economic stability of the housing project;

p. To make and collect the fees and charges it determines are reasonable;

q. To the extent permitted under its contract with the holders of bonds of the agency, to invest and reinvest any moneys of the agency not required for immediate use, including proceeds from the sale of any obligations of the agency, in obligations, securities or other investments as the agency deems prudent. All functions, powers and duties relating to the investment or reinvestment of these funds, including the purchase, sale or exchange of any investments or securities may, upon the request of the agency, be exercised and performed by the Director of the Division of Investment in the Department of the Treasury, in accordance with written directions of the agency signed by an authorized officer, without regard to any other law relating to investments by the Director of the Division of Investment;

r. To provide, contract or arrange for, where, by reason of the financing arrangement, review of the application and proposed construction of a project is required by or in behalf of any department or agency of the United States, consolidated processing of the application or supervision or, in the alternative, to delegate the processing in whole or in part to any such department or agency;

s. To make eligible loans, and to participate with any department, agency or authority of the United States or of any state thereof, this State, a municipality, or any banking institution,

foundation, labor union, insurance company, trustee or fiduciary in an eligible loan, secured by a single participating mortgage, by separate mortgages or by other security agreements, the interest of each having equal priority as to lien in proportion to the amount of the loan so secured, but which need not be equal as to interest rate, time or rate of amortization or otherwise, and to undertake commitments to make such loans;

t. To assess from time to time the housing needs of any municipality which is experiencing housing shortages as a result of the authorization of casino gaming and to address those needs when planning its programs;

u. To sell any eligible loan made by the agency or any loan to an institutional lender owned by the agency, at public or private sale, with or without bidding, either singly or in groups, or in shares of loans or shares of groups of loans, issue securities, certificates or other evidence of ownership secured by such loans or groups of loans, sell the same to investors, arrange for the marketing of the same; and to deposit and invest the funds derived from such sales in any manner authorized by this act;

v. To make commitments to purchase, and to purchase, service and sell, eligible loans, pools of loans or securities based on loans, insured or issued by any department or agency of the United States, and to make loans directly upon the security of any such loan, pools of loans or securities;

w. To provide such advisory consultation, training and educational services as will assist in the planning, construction, rehabilitation and operation of housing including but not limited to assistance in community development and organization, home management and advisory services for residents and to encourage community organizations and local governments to assist in developing housing;

x. To encourage research in and demonstration projects to develop new and better techniques and methods for increasing the supply, types and financing of housing and housing projects in the State and to engage in these research and demonstration projects and to receive and accept contributions, grants or aid, from any source, public or private, including but not limited to the United States and the State, for carrying out this purpose;

y. To provide to housing sponsors, through eligible loans or otherwise, financing, refinancing or financial assistance for fully completed, as well as partially completed, projects which may or may not be occupied, if the projects meet all the requirements of this act, except that, prior to the making of the mortgage loans by the agency, said projects need not have complied with sections 7a.(9) and 42 of this act;

z. To encourage and stimulate cooperatives and other forms of housing with tenant participation;

aa. To promote innovative programs for home ownership, including but not limited to lease-purchase programs, employer-sponsored housing programs, and tenant cooperatives;

bb. To set aside and designate, out of the funds that are or may become available to it for the purpose of financing housing in this State pursuant to the terms of this act, certain sums or proportions thereof to be used for the financing of housing and home-ownership opportunities, including specifically lease-purchase arrangements, provided by employers to their employees through nonprofit or limited-dividend corporations or associations created by employers for that purpose; and to establish priority in funding, offer bonus fund allocations, and institute other incentives to encourage such employer-sponsored housing and home-ownership opportunities;

cc. Subject to any agreement with bondholders, to collect, enforce the collection of, and foreclose on any property or collateral securing its eligible loan or loans to institutional lenders and acquire or take possession of such property or collateral and sell the same at public or private sale, with or without bidding, and otherwise deal with such collateral as may be necessary to protect the interests of the agency therein;

dd. To administer and to enter into agreements to administer programs of the federal government or any other entity which are in furtherance of the purposes of this act;

ee. To do and perform any acts and things authorized by this act under, through, or by means of its officers, agents or employees or by contract with any person, firm or corporation; and

ff. To do any acts and things necessary or convenient to carry out the powers expressly granted in this act.

L.1983, c. 530, s. 5, eff. Jan. 17, 1984.

TITLE 56 TRADE NAMES, TRADE-MARKS AND UNFAIR TRADE PRACTICES

56:9-9. Investigations; subpoenas

a. (1) Whenever the Attorney General, by his own inquiry or as the result of a complaint, suspects that a violation of this act or of the federal antitrust laws is occurring, has occurred or is about to occur, or, whenever the Attorney General believes it to be in the public interest that an investigation be made, the Attorney General or his designee may, prior to the institution of a criminal or civil action thereon, issue in writing and cause to be served upon any person who may have information relevant to such investigation a ~~subpena~~ subpoena to appear and be examined under oath before the Attorney General, his designee or a court of record; answer written interrogatories under oath; or produce documents or any other information or materials for inspection or copying.

(2) Any ~~subpena~~ subpoena issued pursuant to this subsection shall:

(a) Contain a general statement concerning the subject matter of the investigation;

(b) Contain a statement advising the person ~~subpenaed~~ subpoenaed that he has the right, at any time before the return date of the ~~subpena~~ subpoena, to seek a court order determining the

validity of the ~~subpena~~ subpoena;

(c) Contain a statement advising the person ~~subpenaed~~ subpoenaed that he may have an attorney present when he appears and testifies or otherwise responds to the ~~subpena~~ subpoena;

(d) Describe the classes of documentary material to be produced thereunder with sufficient particularity to permit such materials to be reasonably identified;

(e) Prescribe a date and time at which the person; ~~subpenaed~~ subpoenaed shall appear to testify, under oath, or by which the person shall answer written interrogatories or produce the documents or other information or materials for inspection or copying; provided that such date shall not be less than 15 days from the date of service of the ~~subpena~~ subpoena; and

(f) Specify a place for the taking of testimony or for the submission of answers or for the production of documents or other information or materials and identify the persons who are authorized to receive the return of the ~~subpena~~ subpoena.

(3) The powers of ~~subpena~~ subpoena and examination contained in this subsection shall not abate or terminate by reason of any action or proceeding brought by the Attorney General under this act.

b. (1) If a person in attendance upon such investigation pursuant to ~~subpena~~ subpoena, or if a person required to provide the Attorney General answers in writing under oath or otherwise, personally refuses to answer a question or produce evidence of any other kind or make the required answers on the ground that he may be incriminated thereby, and if the Attorney General or his designee, in a writing directed to the person, orders that person to answer the question or produce the evidence, that person shall comply with the order. After complying therewith, and if but for this section he would have been privileged to withhold the answer given or the evidence produced, such answer, testimony or evidence or any evidence directly or indirectly derived therefrom may not be used against the person in any prosecution for a crime or offense concerning which he gave answer or produced evidence; provided that the answer, testimony or evidence is responsive to the question propounded. However, he may nevertheless be prosecuted or subject to penalty or forfeiture for any perjury, false swearing or contempt committed in answering, or failing to answer, or in producing evidence or failing to produce evidence in accordance with the order.

(2) Any person who fails to obey the command of a ~~subpena~~ subpoena, after being ordered to do so by a court of competent jurisdiction, is guilty of a crime of the fourth degree. In the alternative, if a person fails to obey a ~~subpena~~ subpoena after being ordered to do so by a court of competent jurisdiction, the Attorney General may apply to that court to have that person adjudged in contempt and to commit him to jail until such time as he purges himself of contempt by responsibly answering, testifying or producing evidence as ordered.

(3) A person shall not be excused from complying with the terms of a ~~subpena~~ subpoena on the ground of failure to tender or pay a witness fee for mileage, unless demand therefor is made at the time compliance is about to be made. Payment of a witness fee or mileage shall not apply

to any officer, director or person in the employ of any person whose conduct or practices are being investigated.

c. (1) Except as otherwise provided in this subsection, no material produced pursuant to this section or information derived therefrom shall be available for examination, without the consent of the person who produced the material, by any person other than the Attorney General or his designee in connection with the enforcement of this act. However, nothing contained herein shall prevent the legitimate use of such information or materials by the Attorney General or his designee, without the consent of the person who produced the materials, for investigational purposes.

(2) The Attorney General or his designee may disclose, without the consent of the person who produced the material, the material produced pursuant to this section or information derived therefrom to officers and employees of appropriate federal or State law enforcement agencies upon the prior certification of an officer of the federal or State law enforcement agency that the information will be maintained in confidence and will be used only for official law enforcement purposes; provided, however, the Attorney General or his designee shall advise such person of his intent to disclose such material or information derived therefrom 10 days prior to the disclosure.

(3) The Attorney General or his designee may disclose, without the consent of the person who produced the material, material produced pursuant to this section or information derived therefrom to any court or grand jury.

d. Service of a ~~subpena~~ subpoena pursuant to this section shall be by any of those methods specified in the New Jersey Rules of Court for service of a summons and complaint in a civil action.

L.1970, c. 73, s. 9, eff. May 21, 1970. Amended by L.1983, c. 25, s. 1, eff. Jan. 25, 1983.

56:10-21 Hearing on protest.

6. The hearing referred to in section 4 of P.L.1982, c.156 (C.56:10-19) shall be conducted as a contested case in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.) and P.L.1978, c.67 (C.52:14F-1 et seq.). The franchisor shall have the burden of proving by a preponderance of the evidence that the proposed franchise or business will not be injurious. The testimony taken at the hearing shall be under oath and recorded verbatim, but the parties shall not be bound by the rules of evidence. True copies of any transcript and of any other record made of or at the hearing shall be furnished to any party upon request and at that party's expense. The committee may ~~subpena~~ subpoena witnesses and compel their attendance, administer oaths and require the production for examination of any books or papers relating to any matter involved in the hearing. The committee, at the request of any party, may ~~subpena~~ subpoena and compel the attendance of such witnesses as the party may designate and require the production for examination of any books or papers relating to any matter involved in the hearing.

L.1982, c.156, s.6; amended 2011, c.66, s.10.

TITLE 58 WATERS AND WATER SUPPLY

58:1A-15. Powers and duties

15. The department may:

a. Perform any and all acts and issue such orders as are necessary to carry out the purposes and requirements of P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202 (C.58:1A-7.3 et al.);

b. Administer and enforce the provisions of P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202 (C.58:1A-7.3 et al.) and rules, regulations and orders adopted, issued or effective thereunder;

c. Present proper identification and then enter upon any land or water for the purpose of making any investigation, examination or survey contemplated by P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202 (C.58:1A-7.3 et al.);

d. ~~Subpena~~ Subpoena and require the attendance of witnesses and the production by them of books and papers pertinent to the investigations and inquiries the department is authorized to make under P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202 (C.58:1A-7.3 et al.), and examine them and those public records as shall be required in relation thereto;

e. Order the interconnection of public water supply systems, whether in public or private ownership, whenever the department determines that the public interest requires that this interconnection be made, and require the furnishing of water by means of that system to another system, but no order shall be issued before comments have been solicited at a public hearing, notice of which has been published at least 30 days before the hearing, in one newspaper circulating generally in the area served by each involved public water supply system, called for the purpose of soliciting comments on the proposed action.

f. Order any person diverting water to improve or repair its water supply facilities so that water loss is eliminated so far as practicable, safe yield is maintained and the drinking water quality standards adopted pursuant to the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et al.) are met;

g. Enter into agreements, contracts, or cooperative arrangements under such terms and conditions as the department deems appropriate with other states, other State agencies, federal agencies, municipalities, counties, educational institutions, investor-owned water companies, municipal utilities authorities, or other organizations or persons;

h. Receive financial and technical assistance from the federal government and other public or private agencies;

i. Participate in related programs of the federal government, other states, interstate agencies, or other public or private agencies or organizations;

j. Establish adequate fiscal controls and accounting procedures to assure proper disbursement of and accounting for funds appropriated or otherwise provided for the purpose of carrying out the provisions of P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202 (C.58:1A-7.3 et al.);

k. Delegate those responsibilities and duties to personnel of the department as deemed appropriate for the purpose of administering the requirements of P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202 (C.58:1A-7.3 et al.);

l. Combine permits issued pursuant to P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202 (C.58:1A-7.3 et al.) with permits issued pursuant to any other act whatsoever whenever that action would improve the administration of those acts;

m. Evaluate and determine the adequacy of ground and surface water supplies and develop methods to protect aquifer recharge areas.

L.1981,c.262,s.15; amended 1993,c.202,s.9.

58:10-23.11n. Boards of arbitration

a. Boards of arbitration shall be convened by the administrator when persons alleged to have caused the discharge, the administrator or other persons contest the validity or amount of damage claims or cleanup and removal costs presented to the fund for payment. If the source of discharge is not known, any person may contest such claims presented for payment to the fund.

b. In the discretion of the administrator, a board of arbitration may consist of three persons or a single neutral person. In the case of three-person boards, one person shall be chosen by the person alleged to have caused the discharge, one person shall be chosen by the claimant, and one person shall be chosen by the first two to serve as chairman. If the two arbitrators cannot agree upon, select, and name the neutral arbitrator after their appointment, the administrator shall request the American Arbitration Association to utilize its procedures to select the neutral arbitrator. If the source of the discharge is unknown or liability is not conceded, the administrator shall request the American Arbitration Association to utilize its procedures to select the neutral arbitrator and an arbitrator normally selected by the absent or unknown person. Representation by any party on the board shall not be considered as an admission of liability for such discharges. In the case of a one-person board, such neutral arbitrator may, in the discretion of the administrator, be selected by the administrator, by agreement of the affected parties or by utilization of the procedures of the American Arbitration Association; provided, however, that the administrator or any regular employee of the department shall not act as an arbitrator.

(1) Arbitrators shall be designated by their principals within 30 calendar days after the administrator notifies the principals of claims against the fund arising from a discharge.

(2) Should either party fail to name an arbitrator within the designated time, then the

administrator shall request the American Arbitration Association to utilize its procedures to select that arbitrator. The two arbitrators thus chosen shall select the neutral arbitrator required by this section.

c. One board of arbitration may be convened to hear and determine all claims arising from or related to a common discharge.

d. The boards shall have the power to order testimony under oath and may ~~subpena~~ subpoena attendance and testimony of witnesses and the production of such documentary materials pertinent to the issues presented to the board for determination. Each person appearing before the board shall have the right to counsel. e. All costs and expenses approved by the administrator attributable to the employment of any arbitrator shall be payable from the fund.

f. All decisions of the boards of arbitration shall be in writing with notification to all appropriate parties, and shall be rendered within 60 calendar days of the final appointment of the board unless the parties otherwise agree in writing to an extension.

g. Determinations made by the board shall be final. Any action for judicial review shall be filed in the Appellate Division of the Superior Court within 30 days of the filing of the decision with the administrator.

h. No sooner than 30 days after the determination of the arbitrators, nor more than 60 days thereafter, the arbitrators shall certify all claims settled or arbitrated to the administrator who, in turn, shall certify the amount of the award and the name of the claimant to the commissioner, who shall direct the administrator to pay the award from the fund. In any case in which the person responsible for the discharge seeks judicial review, reasonable attorney's fees and costs shall be awarded to the claimant if the decision of the board is affirmed.

L. 1976, c. 141, s. 15. Amended by L. 1985, c. 115, s. 5.