

R.S. 17:9A-181

LEGISLATIVE FACT SHEET

ON

N.J.R.S. 17:9A-181 (Mortgaged, re loan - \$10,000)
(1966 Amendment)

LAWS OF 1966

CHAPTER 274

~~SENATE~~

ASSEMBLY 275

INTRODUCED *Jan. 31, 1966*

BY *Brady, Tanyman*

STATEMENT

YES

NO

AMENDED DURING PASSAGE

YES

NO

HEARING

VETO

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9275 (1966)

298 property. The power to regulate as provided in subsection R of this section
299 may be exercised by the commissioner and the banking advisory board within
300 the standards established by this subsection, notwithstanding that the sub-
301 ject of such regulation is not expressly set forth in subsection R of this
302 section.

1 2. This act shall take effect immediately.



STATEMENT

The changes made in the amendment are:

Subsection O—increasing the limit which may be reloaned on so-called
“open-end mortgages” to \$10,000.00, retaining the limitation that the total
cannot exceed the amount of the original mortgage.

Subsections R and S—adding provisions permitting the commissioner, with
the concurrence of the banking advisory board, to make, alter and rescind
certain regulations. This power is the same as that contained in statutes
relating to savings and loan associations and commercial banks.

ASSEMBLY, No. 275

STATE OF NEW JERSEY

INTRODUCED JANUARY 31, 1966

By Assemblymen BRADY and TANZMAN

Referred to Committee on Business Affairs

AN ACT to amend the "Banking Act of 1948," approved April 29, 1948 (P. L. 1948, c. 67).

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

1 1. Section 181 of the act of which this act is amendatory is amended to
2 read as follows:

2A 181. Mortgage loans.

3 A-1. A savings bank may make or invest in mortgage loans in the man-
4 ner and subject to the limitations prescribed by this section. For the pur-
5 poses of this section, "mortgage loan" shall include every indebtedness
6 secured by mortgage on real property, or on a lease of the fee of real prop-
7 erty (in any case in which such lease is lawful security for such mortgage
8 loan), except as otherwise provided by subsection Q of this section, and a sav-
9 ings bank shall be deemed to have made a mortgage loan when

10 (a) it lends or participates in lending money to a borrower upon the
11 security of real property; or

12 (b) it acquires, by purchase or otherwise, a mortgage loan or any
13 share or part of or interest in a mortgage loan which is not subordinate to
14 any share or part thereof or interest therein held by any other person.

15 A savings bank may sell, assign or otherwise dispose of a share or part
16 of or interest in a mortgage loan held by it to any other person.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

17 A-2. For all purposes of compliance with the applicable provisions and
18 restrictions of subsections D, E, F and G of this section as to the percentage
19 of the mortgage loan to the appraised value of the mortgaged property, and
20 the term of and rate of amortization of such loan, the date of the acquisition
21 by a savings bank of a mortgage loan or a share or part thereof or interest
22 therein shall, as respects such savings bank, be deemed to be the date as of
23 which the mortgage loan was made, and the unpaid amount of the principal
24 then due shall be deemed to be the amount of such mortgage loan.

25 B. No savings bank shall make a mortgage loan at any time when the
26 total cost of acquisition by the savings bank of all real property owned by it,
27 other than real property held for the purposes specified in subparagraph (a)
28 of paragraph (5) of section 24, and the total of all principal balances ow-
29 ing to the savings bank on mortgage loans, less all write-offs and reserves
30 with respect to such real property and mortgage loans, together exceeds, or
31 by the making of such loan will exceed, 80% of its deposits. For the pur-
32 poses of this subsection, principal balances owing on mortgage loans made
33 pursuant to subsection Q(1) of this section shall, only to the extent of the
34 unguaranteed portion of such balances, and loans made pursuant to sub-
35 section Q(2) of this section shall, only to the extent of 50% of such balances,
36 be included in the total of all principal balances owing to the savings bank
37 on mortgage loans.

38 C. Every mortgage loan shall be evidenced by a note or bond, and shall
39 be secured by a mortgage on the fee of real property located within this
40 State, or, if outside this State, upon the fee of real property located within
41 50 miles of the border of this State. Every mortgage shall be certified to be
42 a first lien by an attorney-at-law of the State in which the real property is
43 located, or certified or guaranteed to be a first lien by a corporation author-
44 ized to guarantee titles to land in such State. For the purposes of this sec-
45 tion, a mortgage shall be deemed to be a first lien, notwithstanding the
46 existence of a prior mortgage or mortgages held by the savings bank, or a
47 lien for current taxes or assessments not due or payable at the time the loan

48 is made, and notwithstanding the existence of leases, building restrictions,
49 easements, encroachments, or covenants which, in the opinion of an officer
50 of the savings bank designated for that purpose by the board of managers,
51 do not materially lessen the value of the real property to be mortgaged.

52 D. When the real property offered as security for a mortgage loan con-
53 sists of a lot of land upon which there is one or more one-family dwellings
54 including appropriate garages or other outbuildings, if any, or upon which
55 such a dwelling, or dwellings, garages or outbuildings are in the course of
56 construction or are to be constructed, the amount of the mortgage loan shall
57 not exceed (a) 75% of the appraised value of the real property, or \$35,000.00
58 whichever is lesser; or (b) 80% of the appraised value of the real property,
59 or \$25,000.00, whichever is lesser; or (c) 90% of the appraised value of the
60 real property, or \$25,000.00 whichever is lesser, provided that the dwelling
61 or dwellings are not more than 10 years old.

62 E. When the real property offered as security for a mortgage loan con-
63 sists of a lot of land upon which there is one or more 2-, 3-, or 4-family
64 dwellings including appropriate garages or other outbuildings, if any, or
65 upon which such a dwelling or dwellings and appropriate garages or other
66 outbuildings are in the course of construction or are to be constructed, the
67 amount of the mortgage loan shall not exceed 80% of the first \$30,000.00 of
68 the appraised value of the real property, plus 50% of the excess, if any, of
69 such appraised value over \$30,000.00.

70 F. The instrument evidencing a mortgage loan made pursuant to either
71 subsection D or subsection E of this section shall require that

72 (1) interest shall be paid on such loan monthly, and that equal monthly
73 payments be made in reduction of such loan of an annual rate equal to at
74 least $3\frac{1}{3}\%$ of the original amount of such loan; or

75 (2) that a constant sum be paid monthly in an amount sufficient for
76 current interest and for the payment of the loan in full in not more than 30
77 years and 1 month from the making of such loan.

78 G. When the real property offered as security for a mortgage loan con-
79 sists of a lot of land upon which there is a building or buildings other than
80 dwellings of the nature described in subsections D and E of this section,
81 or upon which such other buildings are in the course of construction or are
82 to be constructed, or when such land is paved for parking lot purposes,
82A the amount of the mortgage loan shall not exceed 75% of ap-
83 praised value of such real property. The instrument evidencing a
84 mortgage loan made pursuant to this subsection shall require that the loan
85 be repaid in full in not more than 10 years and 1 month from the date it
86 is made, except that in the case of dwellings consisting of 5 or more dwell-
87 ing units, the instrument shall require that the loan be repaid in full in not
88 more than 25 years and 1 month from the date it is made; and (a) if the
89 amount of such loan, when made, exceeds 50% of the appraised value of
90 the real property, that payments shall be made in reduction thereof at least
91 semiannually, at an annual rate equal to at least 2% of the original amount
92 of such loan; or (b) if the amount of such loan, when made, does not exceed
93 50% of the appraised value of the real property, that payments shall be
94 made in reduction thereof at least semiannually, at an annual rate equal to
95 at least 1% of the original amount of such loan. When, however, the amount
96 of such loan does not, when made, exceed 50% of the appraised value of such
97 real property, and the instrument evidencing such loan requires that it be
98 paid in full in not more than 5 years and 1 month from the date it is made,
99 the instrument need not require that any payment be made in reduction of
100 such loan prior to its maturity date. Notwithstanding the limitations pre-
101 scribed by subsections D and E and hereinabove in this section, a savings
102 bank may make a mortgage loan secured by a lot of land or 2 or more lots of
103 land, contiguous or not, upon each of which there is a building or buildings,
104 or upon each of which a building or buildings are in the course of con-
105 struction or are to be constructed. The limitations of this section governing
106 the term of the loan, rate of amortization, and the percentage of the mort-
107 gage loan to the appraised value of each type of building, including land,

108 shall apply. No loan shall be made under subsections D, E, F or G hereof to
109 any one person or on any one property if the loan shall exceed 15% of the
110 surplus and reserves of the savings bank, or \$50,000.00, whichever is greater.

111 H. When the real property offered as security for a mortgage loan is
112 of the nature described in subsection D or E of this section, and the amount
113 of the loan does not exceed $66\frac{2}{3}\%$ of the appraised value of such real prop-
114 erty, the instrument evidencing such loan shall be sufficient if it conforms to
115 the requirements of either subsection F or subsection G of this section.

116 I. A mortgage loan may be made for the purpose of enabling a bor-
117 rower to construct a building or buildings upon real property owned by him,
118 and, in such a case, the appraised value of the real property shall include
119 the value of the building or buildings to be constructed, but at no time shall
120 a greater sum be advanced on account of such loan than, in the opinion of
121 (1) the appraisers hereinafter provided for, or (2) one of such appraisers
122 and an officer of the savings bank designated for that purpose by the board
123 of managers, is warranted by the state of completion of the buildings in
124 process of construction. For the purposes of compliance with the applicable
125 requirements of subsection F or G of this section as to the term of and the
126 rate of amortization of a loan made pursuant to this section, such loan shall
127 be deemed to have been made when the final advance shall be made to the
128 borrower on such loan, or 18 months from the date of the mortgage securing
129 such loan, whichever is earlier.

130 J. When the real property offered as security for a mortgage loan con-
131 sists of unimproved land, and the proceeds of such loan are not to be used
132 to construct a building on such land, the amount of such loan shall not ex-
133 ceed 40% of the appraised value of such real property. The instrument
134 evidencing a loan made pursuant to this subsection shall require that such
135 loan be paid in full in not more than 10 years and 1 month from the date
136 it is made. No loan made pursuant to this subsection shall exceed \$10,000.00,
137 or $\frac{1}{10}$ of 1% of the deposits of the savings bank, whichever is greater; nor
138 shall any loan be made at any time when the total of all such loans exceeds,

139 or if the making of such loan would cause such total to exceed 1% of the
140 deposits of the savings bank.

141 K. No mortgage loan shall be made except upon a written certification
142 signed by at least 2 persons, each of whom shall be either a manager of the
143 bank or an appraiser appointed by its board of managers. In the case of a
144 mortgage loan secured by a mortgage upon real property, such certification
145 shall state the opinion of such persons as to the value of the land and the
146 improvements thereon or to be erected thereon and the character of such
147 improvements. In the case of a mortgage loan secured by a mortgage upon
148 a lease of the fee of real property, such certification shall state the
149 opinion of such persons as to the value of the leasehold interest to be sub-
150 ject to the mortgage, including the leasehold interest in the improvements
151 erected or to be erected upon the leased property and the character of such
152 improvements. Such certification shall be filed with the records of the bank,
153 and shall be preserved until the savings bank has no interest, as mortgagee
154 or otherwise, in the real property.

155 L. Purchase money mortgage loans made by a savings bank on the sale
156 of real property owned by it shall not be subject to the preceding subsections
157 or to subsection P of this section, except that such loans shall be included in
158 determining whether the total amount of mortgage loans held by a savings
159 bank exceeds 80% of its deposits.

160 M. No savings bank shall make a mortgage loan secured by a mortgage
161 upon a lease of the fee of real property unless

162 (1) the leased property is located within this State or, if outside this
163 State, the leased property is located within 50 miles of the border of this
164 State;

165 (2) the leased property shall consist of improved real property, includ-
166 ing farm lands, or unimproved real property if the proceeds of such loan
167 shall be used for the purpose of erecting improvements thereon;

168 (3) the mortgage securing such loan shall constitute a first lien on a
169 lease of the fee of real property, which fee is not subject to any prior lien;
170 the fee shall be deemed not subject to any prior lien notwithstanding the

171 existence of liens of taxes which are not delinquent, building restrictions or
172 other restrictive covenants or conditions, joint driveways, sewer rights, rights
173 in walls, rights of way or other easements, or encroachments, which the
174 persons signing the certificate provided for in subsection K of this section
175 report in their opinion do not materially affect the security for the mortgage
176 loan. Every mortgage shall be certified to be such a first lien by an attor-
177 ney-at-law of the State in which the real property is located, or certified or
178 guaranteed to be such a first lien by a corporation authorized to guarantee
179 titles to land in such State;

180 (4) such loan shall not exceed $66\frac{2}{3}\%$ of the appraised value of the lease-
181 hold interest subject to the mortgage, including the leasehold interest in the
182 improvements erected upon the mortgaged property, or to be erected thereon
183 wholly or partly with the proceeds of the mortgage loan; and

184 (5) the instrument evidencing the loan shall require that payment be
185 made on account of the principal amount of such loan at an annual rate
186 sufficient to repay such loan not later than 1 year prior to the expiration of
187 the lease.

188 N. The instrument evidencing a mortgage loan may be in such form, and
189 may contain such provisions, not inconsistent with law, as the savings bank
190 may choose to insert for the protection of its lien and the preservation of
191 its interest in the real property mortgaged to it.

192 O. Notwithstanding the limitations prescribed by the preceding sub-
193 sections or by subsection P of this section, a savings bank may

194 (1) for the purposes of preventing or mitigating loss, or of preserving
195 the lien of its mortgage, or of conserving the value of the real property
196 affected by its mortgage, (a) extend the time for the payment of principal
197 or interest, (b) modify or waive any of the terms or conditions of the in-
198 strument evidencing a mortgage loan, (c) settle or compromise all or part
199 of the amount due or to grow due on a mortgage loan, (d) sell or assign
200 the mortgage loan, or a share or part thereof or interest therein, for such
201 consideration as it shall deem proper, and (e) advance funds for the pay-
202 ment of any tax, lien, charge or claim whatsoever; and

203 (2) make a loan in addition to an existing mortgage loan or loans held
204 by it, upon the security of the same real property and secured by the exist-
205 ing mortgage or mortgages, in an amount not to exceed the difference be-
206 tween the balance due on the existing mortgage or mortgages and the
207 original amount thereof, or the sum of ~~[\$2,500.00]~~ \$10,000.00, whichever is
208 less; provided, however, that no such additional loan shall be made which
209 shall increase the total amount due upon such mortgages over the amount
210 which could be loaned upon the security of such real property. Such addi-
211 tional loan shall be repaid in equal monthly installments, beginning within
212 1 year from the date of such loan, with the payments adjusted so that the
213 additional loan shall be repaid in full either before or at the maturity of
214 the existing mortgage. If the unexpired term of such mortgage or mort-
215 gages shall have been reduced to 10 years or less such term may be ex-
216 tended for an additional period of not more than 10 years. Adjustment of
217 payments and extension of mortgage terms pursuant to this section shall
218 comply with the provisions of subsection F, G or H of this section. If so
219 provided in the original mortgage or a supplement or amendment thereto,
220 persons who acquire any rights in or liens upon the mortgaged real prop-
221 erty subsequent to the recording of the original mortgage or such supple-
222 ment or amendment, as the case may be, shall hold such rights and liens
223 subject to the prior lien of the original mortgage and such supplement or
224 amendment, if any, as security for such additional loan; and in such case, no
225 title certificate or insurance under subsection C of this section shall be re-
226 quired with respect to such additional loan.

227 P. Except as otherwise provided by this section, no savings bank shall
228 make a mortgage loan if the making of such loan would cause the total of
229 all unpaid balances of such loans held by the savings bank upon the security
230 of the same real property or leasehold, to exceed the limitations imposed
231 by this section upon the amount of a mortgage loan which may be made
232 upon the security of such real property or such leasehold.

233 Q. A savings bank may invest in

234 (1) (a) veterans' loans, wherever located, made pursuant to Title III
235 of the Act of Congress of June 22, 1944, known as the "Servicemen's Re-

236 adjustment Act of 1944," as amended, supplemented, revised, or recodified
237 from time to time, which the Administrator of Veterans' Affairs or other
238 officer or agency which succeeds to his powers and functions under said act
239 has insured or guaranteed or has made a commitment to insure or guarantee,
240 to the extent and in the manner provided in said act or the regulations made
241 thereunder; and

242 (b) veterans' loans, wherever located, made and insured or guaranteed
243 in part as provided in paragraph (1) (a) of this subsection of this section,
244 and, as to the balance thereof, insured or guaranteed by an insurer or
245 guarantor named or described in paragraph (2) of this subsection of this
246 section.

247 (c) the provisions and restrictions contained in this section, except those
248 relating to the percentage of the mortgage loan to the appraised value of
249 the real property, the location of the real property, the term of the loan and
250 the rate of amortization, shall apply to investments made pursuant to para-
251 graph (1) of this subsection of this section.

252 (2) (a) mortgages or deeds of trust or other securities of the character
253 of mortgages which are first liens on the fee of real property or a lease of
254 the fee of real property, wherever located, which (i) the United States, or
255 (ii) the Federal Housing Commissioner under the Act of Congress of
256 June 27, 1934, known as the "National Housing Act," as amended, sup-
257 plemented, revised or recodified from time to time, or other officer or
258 agency which succeeds to his powers and functions, or (iii) the State of
259 New Jersey or an officer or agency thereof, or (iv) any other officer or
260 agency of the United States or of this State which the commissioner shall
261 have approved for the purposes of this section as an insurer or guarantor,
262 has fully insured or guaranteed or made a commitment to fully insure or
263 guarantee.

264 (b) mortgages or deeds of trust or other securities made pursuant to
265 paragraph 2(a) of this subsection of this section shall not be subject to the
266 provisions and restrictions of this section, except that they shall be included

267 in determining whether total mortgage investments are within the limita-
268 tion prescribed by subsection B of this section.

269 *R. The commissioner may, from time to time, with the concurrence of*
270 *the banking advisory board, make, alter and rescind regulations:*

271 *(1) authorizing savings banks to make mortgage loans or specified types*
272 *or classes of mortgage loans (a) which exceed the specified percentages of*
273 *the appraised value of the mortgaged property; (b) which mature later than*
274 *the specified periods from their date; (c) which require smaller annual pay-*
275 *ments on account of the principal amounts thereof than those specified in*
276 *this section; and (d) which provide for equal monthly payments each*
277 *applicable to principal and interest in amounts sufficient to pay current in-*
278 *terest on and to repay the amount of the loan in such number of years more*
279 *than 25, but not more than 30, as the regulation may specify;*

280 *(2) increasing the percentage of deposits of savings banks which sav-*
281 *ings banks may invest in mortgage loans;*

282 *(3) increasing the percentage of principal balances owing on mortgage*
283 *loans referred to in subsection Q, which shall not be included in the total of*
284 *all principal balances owing on mortgage loans for the purpose of subsection*
285 *B, or eliminating entirely the principal balances owing on such mortgage*
286 *loans from such total of all principal balances.*

287 **[S. In making, altering and rescinding regulations pursuant to subsec-*
288 *tion R of this section, the commissioner and the banking advisory board*
289 *shall consider the statutes and regulations applicable to other banking in-*
290 *stitutions in the making or acquiring of loans secured by interests in real*
291 *property and the practices followed by other banking institutions in the*
292 *making or acquiring of such loans. The regulations so made shall, so far*
293 *as the commissioner and the banking advisory board deem to be warranted*
294 *by the state of the economy and to be consistent with sound banking prac-*
295 *tices, be directed toward the creation and maintenance of a substantial*
296 *parity between savings banks and other banking institutions in all matters*
297 *relating to the making and acquiring of loans secured by interests in real*

298 *property. The power to regulate as provided in subsection R of this section*
299 *may be exercised by the commissioner and the banking advisory board within*
300 *the standards established by this subsection, notwithstanding that the sub-*
301 *ject of such regulation is not expressly set forth in subsection R of this*
302 *section.】**

1 2. This act shall take effect immediately.