

LEGISLATIVE HISTORY CHECKLIST

NJSA: 17:9A-373

(Banks--Oversight and examination--increase authority of Commissioner of Banking)

LAWS OF: 1986

CHAPTER 6

BILL NO: S1468

Sponsor(s): Orechio

Date Introduced: January 21, 1986

Committee: Assembly: -----

Senate: Labor, Industry and Professions

Amended during passage: No Substituted for A1809 (not attached since identical to S1468).

Date of Passage: Assembly: March 13, 1986

Senate: March 10, 1986

Date of Approval: March 24, 1986

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: Yes

Veto Message: Yes

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: Yes
974.90 New Jersey. Legislature. General Assembly. Banking and Insurance
B218 Committee. Banking and Insurance Subcommittee.
1985 Public hearing . . . on depository institution regulations, held
2-13-85 and 4-3-85. Trenton and Newark, 1985.

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974.90 New Jersey. Legislature. General Assembly.
B218 Financial Institutions Committee.
1986a Public hearing on A1808 and A1809, held 2-20-86, Trenton, 1986.

S1466 enacted March 24, 1986.

SENATE, No. 1468

STATE OF NEW JERSEY

INTRODUCED JANUARY 21, 1986

By Senator ORECHIO

Referred to Committee on Labor, Industry and Professions

AN ACT concerning oversight and examination of certain banks by the Commissioner of Banking, requiring approval by the commissioner of certain changes in the control of banks and supplementing P. L. 1948, c. 67 (C. 17:9A-1 et seq.).

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

1 **L. As used in this act:**

2 (a) "Bank" shall have the same definition as provided in sec-
3 tion 1 of P. L. 1948, c. 67 (C. 17:9A-1) ~~except~~ that bank shall also
4 include any person who controls a bank when used in section
5 4 of this act;

6 (b) "Bank holding company" means a company which controls
7 a banking institution;

8 (c) "Banking institution" means a bank or a national banking
9 association having its principal office in this State;

10 (d) "Commissioner" means the Commissioner of Banking of
11 New Jersey;

12 (e) "Company" means any corporation, partnership, business
13 trust, association, or similar organization, or any other trust, un-
14 less by its terms it must terminate within 25 years or not later
15 than 21 years and 10 months after the death of individuals living
16 on the effective date of the trust, but shall not include any corpora-
17 tion the majority of the shares of which are owned by the United
18 States or by any state;

19 (f) (1) "Control" of a bank or banking institution means:

20 (i) ownership, control, or power to vote 25% or more of the

21 outstanding shares of any class of voting securities of the bank
 22 or banking institution, directly or indirectly, or acting through
 23 one or more persons;

24 (ii) control in any manner over the election of a majority
 25 of the directors, trustees, general partners, or individuals
 26 exercising similar functions of the bank or banking institu-
 27 tion; or

28 (iii) the power to exercise, directly or indirectly, a control-
 29 ling influence over the management or policies of the bank or
 30 banking institution, as determined by the commissioner after
 31 notice and opportunity for hearing;

32 (2) A person which is a bank, as defined in section 1 of P. L.
 33 1957, c. 70 (C. 17:9A-344), shall not be deemed to control voting
 34 securities or assets of a bank acquired (i) in good faith in a
 35 fiduciary capacity, except where those voting securities are held
 36 in a trust that constitutes a company or (ii) in the regular course
 37 of securing or collecting a debt previously contracted in good faith
 38 which securities are disposed of within a period of two years after
 39 the date on which they were acquired or after the enactment of
 40 this act, whichever is later;

41 (3) A person is deemed to control voting securities or assets
 42 owned, controlled, or held directly or indirectly

43 (i) by any subsidiary of the person; or

44 (ii) in a fiduciary capacity, including by pension and profit-
 45 sharing trusts, for the benefit of the shareholders, members,
 46 employees, or individuals serving in similar capacities, of the
 47 person or of any of its subsidiaries; or

48 (iii) in a fiduciary capacity for the benefit of the person or
 49 any of its subsidiaries;

50 (g) "Insured banking institution" means a banking institution
 51 the deposits of which are insured in accordance with the provisions
 52 of the "Federal Deposit Insurance Act," 64 Stat. 873 (12 U. S. C.
 53 1811 et seq.);

54 (h) "Outstanding shares" means any voting securities, but does
 55 not include securities owned by the United States or by a company
 56 wholly owned by the United States;

57 (i) "Subsidiary" means a person that is controlled by another
 58 person;

59 (j) "United States" means the United States and includes any
 60 of the United States, the District of Columbia, any territory of the
 61 United States, Puerto Rico, Guam, American Samoa, and the
 62 Virgin Islands;

63 (k) (1) "Voting securities" means shares of common or pre-

64 ferred stock, general or limited partnership shares of interests or
65 similar interests if the shares of interests, by statute, charter, or
66 in any manner, entitled the holder:

67 (i) to vote for or to select directors, trustees, partners, or
68 persons exercising similar functions for the issuing company;
69 or

70 (ii) to vote on or to direct the conduct of the operations or
71 other significant policies of the issuing person;

72 (2) Preferred shares, limited partnership shares or interests, or
73 similar interests are not "voting securities" if:

74 (i) any voting rights associated with the shares or interests,
75 including the right to select or vote for the selection of di-
76 rectors, trustees, or partners or persons exercising similar
77 functions, (a.a.) are limited solely to the type customarily pro-
78 vided by statute with regard to matters that would significantly
79 and adversely affect the rights or preference of the security
80 or other interest, such as the issuance of additional amounts
81 or classes of senior securities, the modification of the terms
82 of the security or interest, the dissolution of the issuing per-
83 son, or the payment of dividends by the issuing person when
84 preferred dividends are in arrears, or, (b.b.) entitle the holder
85 thereof to vote for the election of directors, trustees or partners
86 or persons exercising similar functions only as the result of
87 the failure to pay a dividend or to fulfill an obligation or
88 satisfy a condition specified by the terms of such share or
89 interests; and

90 (ii) the shares or interests represent an essentially passive
91 investment or financing device and do not otherwise provide
92 the holder with control over the issuing person.

1 2. (a) A bank holding company shall, upon the request of the
2 commissioner, provide to the commissioner a copy of the bank
3 holding company's filings with the bank regulatory authorities of
4 the United States and the Securities and Exchange Commission.

5 (b) A person, other than a bank holding company, a state of the
6 United States, the United States or a corporation the majority of
7 the shares of which are owned by the United States or by any
8 state, which controls a bank shall annually provide the following
9 information to the commissioner on or before April 30:

10 (i) The identity, personal history, business background and
11 experience of the person, including material business activities
12 and affiliations during the past five years, and a description of
13 any material, pending legal or administrative proceedings in
14 which the person is a party and any criminal indictment or

15 conviction of the person issued by a state or federal court;

16 (ii) A statement of the assets and liabilities of the person,
17 for each of five preceding fiscal years, together with related
18 statements of income and source and application of funds for
19 each of those fiscal years, prepared in accordance with gen-
20 erally accepted accounting principles consistently applied; and

21 (iii) Any additional relevant information in that form which
22 the commissioner may require by regulation or by specific
23 request.

24 (c) The commissioner may by regulation or on an individual
25 basis exempt persons from the reporting requirements of this
26 section.

1 3. (a) The commissioner shall have the right to examine any
2 company which controls a bank, the cost of which examination shall
3 be assessed against and paid by the company in an amount to be
4 set by regulation of the commissioner.

5 (b) The examination authorized by this section shall be conducted
6 jointly, concurrently or in lieu of examinations made by a federal
7 or other state bank regulatory agency. The commissioner shall use,
8 to the extent he deems feasible, filings and reports made by the
9 company to federal or other state bank regulatory authorities.

10 (c) A copy of any examination report prepared by the New
11 Jersey Department of Banking may be given to any federal or
12 other state bank regulatory authority pursuant to a written agree-
13 ment providing for the exchange of reports of examinations between
14 the department and the federal or other state bank regulatory
15 authority.

1 4. (a) No person, acting directly or indirectly, or through or in
2 concert with one or more other persons, shall acquire control of
3 any bank through a purchase, assignment, transfer, pledge, or
4 other disposition of voting securities of a bank unless the com-
5 missioner has been given 60 days' prior written notice of the pro-
6 posed acquisition, and has not issued a notice disapproving the
7 proposed acquisition during that period or during an additional
8 30 day period immediately thereafter. The period for disapproval
9 may be further extended only if the commissioner determines that
10 any acquiring party has not furnished all the information required
11 under subsection (f) of this section or that in his judgment any
12 material information submitted is substantially inaccurate. An
13 acquisition may be made prior to expiration of the disapproval
14 period if the commissioner issues written notice of his intent not
15 to disapprove the action.

16 (b) If the commissioner determines that he must act immediately
17 upon notice of a proposed acquisition in order to prevent the

18 probable failure of the bank involved in the proposed acquisition,
19 he may waive the approval process requirements of this section.

20 (c) Within three days after the date of the commissioner's deci-
21 sion to disapprove any proposed acquisition, the commissioner shall
22 notify the acquiring party in writing of the disapproval. The notice
23 shall provide a statement of the basis for the disapproval.

24 (d) Within 10 days of receipt of a notice of disapproval, the ac-
25 quiring party may ask the commissioner in writing to hold a hear-
26 ing on the proposed acquisition. The hearing shall be held in ac-
27 cordance with the provisions of the "Administrative Procedure
28 Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) and any rules adopted
29 thereunder.

30 (e) The commissioner's disapproval of a proposed acquisition
31 following a hearing shall be subject to review by the Appellate
32 Division of the Superior Court.

33 (f) Except as otherwise provided by regulation, a notice of pro-
34 posed acquisition filed pursuant to this section shall contain the
35 following information:

36 (i) The identity, personal history, business background and
37 experience of each person by whom or on whose behalf the
38 acquisition is to be made, including material business activities
39 and affiliations during the past five years, and a description of
40 any material, pending legal or administrative proceedings in
41 which the person is a party and any criminal indictment or
42 conviction of the person issued by a state or federal court;

43 (ii) A statement of the assets and liabilities of each person
44 by whom or on whose behalf the acquisition is to be made, as
45 of the end of the fiscal year for each of the five fiscal years
46 immediately preceding the date of the notice, together with
47 related statements of income and source and application of
48 funds for each of those fiscal years, all prepared in accordance
49 with generally accepted accounting principles consistently ap-
50 plied, and an interim statement of the assets and liabilities for
51 each such person, together with related statements of income
52 and source and application of funds, as of a date not more
53 than 90 days prior to the date of the filing of the notice;

54 (iii) The terms and conditions of the proposed acquisition
55 and the manner in which the acquisition is to be made;

56 (iv) The identity, source and amount of the funds or other
57 consideration used or to be used in making the acquisition, and
58 if any of these funds or other consideration has been or is to
59 be borrowed or otherwise obtained for the purpose of making
60 the acquisition, a description of the transaction, the names of

61 the parties, and any arrangements, agreements, or under-
62 standings between or among the parties;

63 (v) Any plans or proposals which provide that any ac-
64 quiring party may liquidate the bank, sell its assets, merge it
65 with any person, or make any other major changes in its busi-
66 ness or corporate structure or management;

67 (vi) The identification of any person employed, retained, or
68 to be compensated by the acquiring party, or by any person on
69 his behalf, to make solicitations or recommendations to stock-
70 holders for the purpose of assisting in the acquisition, and a
71 brief description of the terms of that employment, retainer,
72 or arrangement for compensation;

73 (vii) Copies of all invitations, tenders or advertisements
74 making a tender offer to stockholders for purchase of their
75 stock to be used in connection with the proposed acquisition;
76 and

77 (viii) Any additional relevant information in such form as
78 the commissioner may require by regulation or by specific re-
79 quest in connection with any particular notice.

80 (g) The commissioner may disapprove any proposed acquisi-
81 tion if:

82 (i) The financial condition of any acquiring person is such
83 as might jeopardize the financial stability of the bank or preju-
84 dice the interests of the depositors of the bank;

85 (ii) The competence, experience, or integrity of any acquir-
86 ing person or of any of the proposed management personnel
87 indicates that it would not be in the interest of the depositors
88 of the bank, or in the interest of the public to permit such
89 person to control the bank; or

90 (iii) Any acquiring person neglects, fails, or refuses to
91 furnish all the information required by the commissioner.

92 (h) In lieu of the notice provided for in subsection (f) of this
93 section, whenever any insured banking institution makes a loan or
94 loans, secured, or to be secured, by 25% or more of the outstanding
95 voting securities of the bank, the president or other chief executive
96 officer of the lending insured banking institution shall promptly
97 report such fact to the commissioner upon obtaining knowledge of
98 the loan or loans, except that no report need be made in those
99 cases where the borrower has been the owner of record of the
100 voting securities for a period of at least one year or where the
101 voting securities are that of a newly organized bank prior to its
102 opening.

103 (i) The reports required by subsection (h) of this section shall

104 contain as much of the information required under subsection (f)
105 of this section, and any other relevant information, as the com-
106 missioner may require by regulation or by specific request, in con-
107 nection with any particular report.

108 (j) Within 12 months after a change of control, a bank shall
109 report promptly to the commissioner any changes or replacement
110 of its chief executive officer or of its director, including in the
111 report a statement of the past and current business and profes-
112 sional affiliations of any new chief executive officer or directors.

113 (k) This section shall not apply to the following transactions:

114 (i) Any transaction subject to subsection (c) of section 18
115 of the "Federal Deposit Insurance Act," 64 Stat. 891 (12
116 U. S. C. 1828 (c));

117 (ii) The acquisition of additional shares of a class of voting
118 securities of a bank or person by any person who has lawfully
119 acquired and maintained control of 25% or more of that class
120 of voting securities after filing the notice required under this
121 section;

122 (iii) The acquisition of voting securities in good faith in
123 a fiduciary capacity, except that in circumstances described in
124 subparagraph (ii) of paragraph (2) of subsection (f) of sec-
125 tion 1 of this act, the person in control of such voting securities
126 shall within 60 days of such acquisition provide the commis-
127 sioner with a notice containing the information specified in
128 subsection (f) of this section and dispose of such voting securi-
129 ties if the commissioner objects to such control or in situations
130 where the fiduciary has sole discretionary voting authority, the
131 fiduciary shall within 60 days of obtaining such voting authority
132 provide the commissioner with a notice containing the informa-
133 tion specified in subsection (f) and dispose of such sole voting
134 power if the commissioner objects to such voting authority;

135 (iv) The acquisition of voting securities, which would other-
136 wise require a notice under this section, in satisfaction of a
137 debt previously contracted in good faith if the commissioner
138 is notified within 60 calendar days after such acquisition and
139 the acquiring party provides any relevant information re-
140 quested by the commissioner;

141 (v) The acquisition of voting securities through inheritance
142 or a bona fide gift if the commissioner is notified within 60
143 calendar days after such acquisition and the acquiring party
144 provides any relevant information requested by the commis-
145 sioner;

146 (vi) The acquisition of the power to vote voting securities
 147 through receipt of a revocable proxy in connection with a
 148 proxy solicitation for the purposes of conducting business at
 149 a regular or special meeting of a bank or person in control of
 150 a bank, if the proxy terminates within a reasonable time after
 151 the meeting;

152 (vii) The receipt of voting securities through a stock divi-
 153 dend or stock split if the proportional interest of the recipient
 154 in a bank or person in control of a bank remain substantially
 155 the same;

156 (viii) The acquisition of voting securities acquired in con-
 157 nection with the underwriting of securities if such securities
 158 are held only for a period of time as will permit the sale
 159 thereof on a reasonable basis;

160 (ix) Acquisition by any corporation the majority of the
 161 shares of which are owned by the United States;

162 (x) Transactions entered into prior to the effective date of
 163 this act:

164 (xi) Any transaction for which the approval of the com-
 165 missioner is required prior to consummation other than pur-
 166 suant to this section;

167 (xii) Transactions which the commissioner shall determine
 168 to be exempt from the application of this section; or

169 (xiii) Acquisition by any company which immediately prior
 170 to that acquisition could be examined by the commissioner pur-
 171 suant to section 3 of this act, but in such case the commissioner
 172 shall be notified within 30 calendar days after that acquisition.

1 5. The following fees shall be paid to the commissioner for the
 2 use of the State. The fees shall be in the minimum amount in-
 3 dicated or in such amount as provided by regulation of the com-
 4 missioner, which amount shall not exceed the maximum amount
 5 provided below:

	Minimum	Maximum
6 (a) Filings pursuant to subsection (a) of		
7 section 2, per item filed	\$ 50.00	\$ 100.00
8 (b) Filings pursuant to subsection (b) of		
9 section 2, per item filed	\$ 50.00	\$ 100.00
10 (c) Notice pursuant to subsection (a) of		
11 section 4	\$625.00	\$2,500.00
12 (d) Request for hearing pursuant to sub-		
13 section (d) of section 4	\$625.00	\$2,500.00

	Minimum	Maximum
14 (e) Report required by subsection (h) of		
15 section 4	\$ 50.00	\$ 100.00
16 (f) Report required by subsection (i) of		
17 section 4	\$ 50.00	\$ 100.00
18 (g) Report required by subsection (j) of		
19 section 4	\$ 50.00	\$ 100.00
20 (h) Notice required by paragraph (iii) of		
21 subsection (k) of section 4	\$ 50.00	\$ 100.00
22 (i) Notice required by paragraph (iv) of		
23 subsection (k) of section 4	\$ 50.00	\$ 100.00
24 (j) Notice required by paragraph (v) of		
25 subsection (k) of section 4	\$ 50.00	\$ 100.00

1 6. The provisions of this act shall not be deemed to remove, im-
2 pair, supersede or repeal any authority of the commissioner to
3 approve or review any transaction under "The Banking Act of
4 1948," P. L. 1948, c. 67 (C. 17:21A-1 et seq.).

1 7. The commissioner shall promulgate the rules and regulations
2 necessary to carry out the purposes of this act.

1 8. Upon a finding by the commissioner, after notice and an op-
2 portunity to be heard, of a violation by any person of any of the
3 provisions of this act, or any regulation or order of the commis-
4 sioner issued pursuant thereto, the commissioner may order the
5 person to cease any violations or to pay a civil penalty not in
6 excess of \$1,000.00 per day for each day that the violation has
7 continued, or both, the penalty being recoverable in a summary
8 proceeding under the "penalty enforcement law," N. J. S. 2A:58-1
9 et seq.

1 9. If any section or portion of a section of this act shall be
2 invalid for any reason, the invalidity shall not affect the validity
3 of the remaining sections or portions of sections.

1 10. This act shall be known and may be cited as the "New
2 Jersey Banking Oversight and Change of Control Act."

1 11. This act shall take effect on the 60th day after enactment
2 into law of Senate Bill No. 1466 of 1986.

STATEMENT

The Douglas Amendment to the federal "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U. S. C. § 1841 et seq.), grants to the states the right to determine the structure of banking within their own borders. In effect, the amendment prevents bank holding companies from acquiring a bank outside of their home state unless the law of the foreign state explicitly permits an out-of-state bank holding company to acquire banks in that state.

It is within the authority of the Legislature to take action to permit out-of-state acquisition of in-state banks. At present, the regulatory authority of the State extends only to banks themselves, and not to bank holding companies that control banks. As New Jersey moves toward consideration of some form of "interstate" banking, consideration should be given to monitoring the activities of the individuals and companies that control New Jersey banks.

This bill, enacting the New Jersey Banking Oversight and Change of Control Act, addresses two important public concerns which have not been the subject of legislation in this State. Those concerns are the lack of proper reporting and examination authority over individuals and companies owning banks located in New Jersey, and the lack of effective oversight of acquisitions resulting in a change of control of State-chartered banks. This bill addresses those legitimate State concerns while recognizing the federal role and avoiding unnecessary duplication of regulation.

Section 2 of the bill requires all companies that control banks located in New Jersey (whether such banks are State-chartered or federally-chartered) to file copies of existing reports with the Commissioner of Banking upon request and for informational purposes only. A parallel requirement is imposed upon individuals who control such banks. Section 3 also provides the Commissioner of Banking with examination authority over all companies which control State-chartered banks, but not over companies that do not control any State-chartered banks.

Section 4, concerning change in bank control, provides a mechanism whereby the Commissioner of Banking exercises approval authority over transactions that will result in a change of control of any State-chartered bank, whether the acquiring party is an individual or a bank holding company. An exception is provided where the acquiring party is a bank holding company which already owns a State-chartered bank, which subjects both to the examination authority of the commissioner.

Section 5 of the bill provides a fee schedule for the filings, reports and notices required under the act. Sections 6 through 11 are general provisions providing for the enforcement and implementation of the act.

This bill is necessary for protection of the safety and soundness of our banking industry in an era of increased acquisitions by individuals and companies from New Jersey and from other states. The provisions of this bill are reasonable and will not impose undue burdens or costs upon the industry, while providing an effective measure of protection for the public.

Banking and Financial Institutions

Oversight of bank holding companies.

Provides the Commissioner of Banking with authority for oversight and examination of certain banks.

	Minimum	Maximum
14 (e) Report required by subsection (h) of		
15 section 4	\$ 50.00	\$ 100.00
16 (f) Report required by subsection (i) of		
17 section 4	\$ 50.00	\$ 100.00
18 (g) Report required by subsection (j) of		
19 section 4	\$ 50.00	\$ 100.00
20 (h) Notice required by paragraph (iii) of		
21 subsection (k) of section 4	\$ 50.00	\$ 100.00
22 (i) Notice required by paragraph (iv) of		
23 subsection (k) of section 4	\$ 50.00	\$ 100.00
24 (j) Notice required by paragraph (v) of		
25 subsection (k) of section 4	\$ 50.00	\$ 100.00

1 6. The provisions of this act shall not be deemed to remove, im-
 2 pair, supersede or repeal any authority of the commissioner to
 3 approve or review any transaction under "The Banking Act of
 4 1948," P. L. 1948, c. 67 (C. 17:9A-1 et seq.).

1 7. The commissioner shall promulgate the rules and regulations
 2 necessary to carry out the purposes of this act.

1 8. Upon a finding by the commissioner, after notice and an op-
 2 portunity to be heard, of a violation by any person of any of the
 3 provisions of this act, or any regulation or order of the commis-
 4 sioner issued pursuant thereto, the commissioner may order the
 5 person to cease any violations or to pay a civil penalty not in
 6 excess of \$1,000.00 per day for each day that the violation has
 7 continued, or both, the penalty being recoverable in a summary
 8 proceeding under the "penalty enforcement law," N. J. S. 2A:58-1
 9 et seq.

1 9. If any section or portion of a section of this act shall be
 2 invalid for any reason, the invalidity shall not affect the validity
 3 of the remaining sections or portions of sections.

1 10. This act shall be known and may be cited as the "New
 2 Jersey Banking Oversight and Change of Control Act."

1 11. This act shall take effect on the 60th day after enactment
 2 into law of Senate Bill No. 1466 of 1986.

STATEMENT

The Douglas Amendment to the federal "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U. S. C. § 1841 et seq.), grants to the states the right to determine the structure of banking within their own borders. In effect, the amendment prevents bank holding companies from acquiring a bank outside of their home state unless the law of the foreign state explicitly permits an out-of-state bank holding company to acquire banks in that state.

S1468 (1986)

It is within the authority of the Legislature to take action to permit out-of-state acquisition of in-state banks. At present, the regulatory authority of the State extends only to banks themselves, and not to bank holding companies that control banks. As New Jersey moves toward consideration of some form of "interstate" banking, consideration should be given to monitoring the activities of the individuals and companies that control New Jersey banks.

This bill, enacting the New Jersey Banking Oversight and Change of Control Act, addresses two important public concerns which have not been the subject of legislation in this State. Those concerns are the lack of proper reporting and examination authority over individuals and companies owning banks located in New Jersey, and the lack of effective oversight of acquisitions resulting in a change of control of State-chartered banks. This bill addresses those legitimate State concerns while recognizing the federal role and avoiding unnecessary duplication of regulation.

Section 2 of the bill requires all companies that control banks located in New Jersey (whether such banks are State-chartered or federally-chartered) to file copies of existing reports with the Commissioner of Banking upon request and for informational purposes only. A parallel requirement is imposed upon individuals who control such banks. Section 3 also provides the Commissioner of Banking with examination authority over all companies which control State-chartered banks, but not over companies that do not control any State-chartered banks.

Section 4, concerning change in bank control, provides a mechanism whereby the Commissioner of Banking exercises approval authority over transactions that will result in a change of control of any State-chartered bank, whether the acquiring party is an individual or a bank holding company. An exception is provided where the acquiring party is a bank holding company which already owns a State-chartered bank, which subjects both to the examination authority of the commissioner.

Section 5 of the bill provides a fee schedule for the filings, reports and notices required under the act. Sections 6 through 11 are general provisions providing for the enforcement and implementation of the act.

This bill is necessary for protection of the safety and soundness of our banking industry in an era of increased acquisitions by individuals and companies from New Jersey and from other states. The provisions of this bill are reasonable and will not impose undue burdens or costs upon the industry, while providing an effective measure of protection for the public.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

SENATE, No. 1468

STATE OF NEW JERSEY

DATED: MARCH 6, 1986

This bill, known as the "New Jersey Banking Oversight and Change of Control Act," provides the Commissioner of Banking with supervision and examination authority over persons and companies owning banks located in New Jersey and oversight of acquisitions resulting in a change of control of State-chartered banks.

Section 2 of the bill requires all bank holding companies (whether these companies are located in New Jersey or out-of-State) that control a State-chartered or federally-chartered bank or banks, or both, located in this State to file with the Commissioner of Banking a copy of their filings made with bank regulatory authorities of the United States and the Securities and Exchange Commission upon request by the commissioner and for informational purposes only. A person, other than a bank holding company or federal or State agency, which controls a State-chartered bank must annually file with the commissioner: a report containing a personal and business history; any material regarding pending legal or administrative proceedings; or any criminal indictments or convictions; and certain financial information.

Section 3 provides the Commissioner of Banking with the authority to examine all companies which control State-chartered banks, but not over companies that do not control any State-chartered banks. The cost of the examination would be paid by the company in an amount determined by regulation.

Section 4, concerning change in bank control, provides a mechanism whereby the Commissioner of Banking exercises approval authority over transactions that will result in a change of control of any State-chartered bank, whether the acquiring party is a person or a bank holding company. It provides that no person may acquire control of a State-chartered bank unless the commissioner has been given 60 days prior written notice of the proposed acquisition, and has not issued a notice disapproving the proposed acquisition during that period or during an additional 30-day period immediately thereafter. The commissioner may waive this prior notification requirement in the case of

the acquisition of a failing bank. The notice of the proposed acquisition must contain: a personal and business history of the person; any pertinent legal or administrative proceedings or criminal indictments or convictions of the person; certain financial information; the terms and conditions of the acquisition; the identity, source and amount of funds to be used in making the acquisition; plans or proposals for the use of the acquisition; and other relevant information. The commissioner may disapprove any proposed acquisition if: (1) the financial condition of any acquiring person might jeopardize the financial stability of the bank or prejudice the interests of the depositors of the bank; (2) the competence, experience or integrity of any acquiring person or the proposed management indicates that it would not be in the interest of the depositors of the bank or the public to permit such person to control the bank; or (3) any acquiring person neglects, fails or refuses to furnish all the information required by the commissioner. The commissioner's decision to disapprove any proposed acquisition may be appealed for a hearing by the commissioner and, following the hearing, for review by the Appellate Division of the Superior Court. There are various exceptions to the prior notification requirement in this section, such as when the acquiring party is a bank holding company which already owns a State-chartered bank, which subjects both to the examination authority of the commissioner.

Section 5 of the bill provides a fee schedule for the filings, reports and notices required under the provisions of this bill.

Section 7 of the bill provides that a person who violates any provision of this bill, or any regulation or order of the commissioner thereunder, may be subject to an order to cease any violation or to pay a civil penalty of not more than \$1,000.00 per day for each day that the violation has continued, or both.

This bill will not take effect until Senate Bill No. 1466 of 1986 is signed into law.



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OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001
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Release: TUES., APRIL 1, 1986

Governor Thomas H. Kean has signed legislation creating a regional banking district comprising 14 states and the District of Columbia. The measure will permit the creation of an interstate banking mechanism by allowing out-of-state bank holding companies to acquire or establish subsidiaries in New Jersey, while permitting New Jersey banks to similarly expand into other states.

The bill, S-1467/A-1808, was sponsored by State Senator Carmen O. Orechio, D-Essex and Assemblyman Louis F. Kosko, R-Bergen.

At the same time, the Governor signed S-1468/A-1809, also sponsored by Orechio and Kosko, and S-1466/A-1810, sponsored by Kosko and State Senator Raymond Lesniak, D-Union.

S-1468/A-1809 expands the New Jersey Commissioner of Banking's oversight over individuals or entities who control Federal or State chartered commercial banks.

S-1466/A-1810 makes modifications to the current requirement that no Federal or State chartered commercial bank hold more than 20 percent of the aggregate average daily deposits of all commercial banks in the State.

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S-1467/A-1808, the "interstate banking bill," is designed to meet a United States Supreme Court decision which held that states may enact and implement multi-state regional banking mechanisms which would allow bank holding companies to cross state lines to acquire or establish subsidiaries in other signatory states so long as there is reciprocity between the states.

The bill creates the Central Atlantic Banking Region which includes New Jersey, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, Ohio, Pennsylvania, Tennessee, West Virginia, Wisconsin and the District of Columbia.

Currently, reciprocal legislation has been enacted in Ohio and Kentucky.

* * * *

The Governor also signed A-1919, sponsored by Assemblyman Rodney P. Frelinghuysen, R-Morris, which provides a supplemental appropriation of \$99,000 to the Department of Health to permit the purchase of needed quantities of PKU formula, a nutritional supplement used to treat children with inborn metabolic problems.

The formula is required to treat children born with an inability to break down a particular amino acid. Build up of the amino acid in the infant can lead to severe mental retardation.

The funding is required as a supplement to a Federal block grant which has become inadequate to supply the material because of increased cost and a need for more of the supplement.

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