

17: 9A-7 et al

1/19/88

LEGISLATIVE HISTORY CHECKLIST

NJSA: 17:9A-7 et al (Mutual savings banks-- allow establishment of holding companies)

LAWS OF: 1987 CHAPTER: 201

Bill No: A2042

Sponsor(s): Kosco and others

Date Introduced: February 20, 1986

Committee: Assembly: Financial Institutions

Senate: Labor, Industry and Professions

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: June 9, 1986

Senate: April 30, 1987

Date of Approval: July 22, 1987

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

7-22-87

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ASSEMBLY, No. 2042

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 20, 1986

By Assemblymen KOSCO, GENOVA, Assemblywoman OGDEN, Assemblymen KARCHER, KERN, DARIO, LOVEYS, HENDRICKSON, FELICE, Assemblywoman DONOVAN, Assemblymen MORAN, ZECKER, Assemblywoman RANDALL, Assemblymen MILLER, Assemblywoman CRECCO, Assemblymen ROONEY, ROCCO, SCHUBER, CATRILLO, NAPLES, BROWN, HAYTAIAN, KAVANAUGH, PENN, FOY and ZANGARI

AN ACT concerning savings banks and other depository institutions, and revising various parts of the statutory law.

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

1 1. (New section) As used in sections 1 through **[32]** ***27***
2 of this act:

3 a. "Beneficial **[ownership]** **[']** *owner* ****** **[in-**
3A cludes:

4 (1) **[Any]** **Includes any** person who **,** directly or indirectly
5 through any contract, arrangement, understanding, relationship or
6 otherwise, has or shares:

7 (a) Voting power which includes the power to vote, or to
8 direct the voting of shares; or

9 (b) Investment power which includes the power to dispose,
10 or to direct the disposition of **[such]** shares;

11 (2) **[Any]** **Includes any** person who directly or indirectly
12 creates or uses a trust, proxy, power of attorney, pooling arrange-
13 ment or any other contract, arrangement or device with the purpose

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

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted May 22, 1986.

**—Senate committee amendments adopted February 19, 1987.

14 or effect of divesting the person of beneficial ownership of shares
 15 or preventing the vesting of such beneficial ownership as part of a
 16 plan or scheme to evade this act ***[shall be deemed for purposes of**
 17 **this act to be the beneficial owner of the shares]** *;

18 ***[(3) All securities of the same class beneficially owned by a per-**
 19 **son, regardless of the forms the beneficial ownership takes, shall**
 20 **be aggregated in calculating the number of shares beneficially**
 21 **owned by the person;]** *

22 ***[(4) A]** * *(3) Includes any* * person who has the right to acquire
 23 beneficial ownership of the shares as defined herein within sixty (60)
 24 days, including, but not limited to, any right to acquire:

25 (a) Through the exercise of any option, warrant or right;

26 (b) Through the conversion of a security;

27 (c) Pursuant to the power to revoke a trust, discretionary
 28 account, or similar arrangement; or

29 (d) Pursuant to the automatic termination of a trust, dis-
 30 cretionary account or similar arrangement; except that, any
 31 person who acquires a security or power specified in subpara-
 32 graphs (a), (b), ***or*** (c) above, with the purpose or effect
 33 of changing or influencing the control of the issuer, or in con-
 34 nection with or as a participation in any transaction having
 35 such effect or purpose, immediately upon the acquisition shall
 36 be deemed to be the beneficial owner of the shares which may
 37 be acquired through the exercise or conversion of such security
 38 or power. Any securities not outstanding which are subject to
 39 these options, warrants, rights, or conversion privileges shall
 40 be deemed to be outstanding for the purpose of computing the
 41 percentage of outstanding securities of the class owned by the
 42 person but shall not be deemed to be outstanding for the pur-
 43 pose of computing the percentage of the class by any other
 44 person;

45 ***[“Beneficial ownership” does]** * *(4) Does* * not include:

46 ***[A]** * *(a) Any* * member of a national securities exchange who
 47 holds shares directly or indirectly on behalf of another person solely
 48 because the member is the record holder of the securities and, pur-
 49 suant to the rules of the exchange, may direct the vote of the shares
 50 without instruction on other than contested matters or matters that
 51 may affect substantially the rights or privileges of the holders
 52 of these shares to be voted, but is otherwise precluded by the rules
 53 of the exchange from voting without instruction; or

54 ***[A]** * *(b) Any* * person who in the ordinary course of business
 55 is a pledgee of securities under a written pledge agreement until the
 56 pledgee had taken all formal steps necessary which are required to

57 declare a default and determines that the power to vote or direct a
 58 vote or to dispose or to direct the disposition of pledged shares will
 59 be exercised, provided that (i) the pledge agreement is bona fide and
 60 was not entered into with the purpose or the effect of changing or
 61 influencing the control of the issuer, or in connection with any
 62 transaction having any such purpose or effect including any trans-
 63 action subject to this act; and (ii) the pledge agreement prior to
 64 default does not grant to the pledgee: (A) the power to vote or
 65 to direct the vote of the pledged securities; or (B) the power to
 66 dispose or to direct the disposition of the pledged securities other
 67 than the grant of this power pursuant to a pledged agreement under
 68 which credit is extended subject to Regulation T of the Federal
 69 Reserve Board, 12 C. F. R. 220, and in which the pledgee is a
 70 broker or dealer registered under section 15 of the "Securities and
 71 Exchange Act of 1934," 48 Stat. 896 (15 U. S. C. **§** 78***[0]***
 71A *o*); or

72 *(c)* Any person engaged in business as an underwriter of secu-
 73 rities who acquires shares through participation ***[and]*** *in* good
 74 faith in a firm commitment underwriting *of shares* registered
 75 under the "Securities Act of 1933," 48 Stat. 74 (15 U. S. C.
 76 **§** 77a et seq.)*, or under the "Securities Exchange Act of
 76A 1934," 48 Stat. 881 (15 U. S. C. **§** 78a et seq.)*, until the expi-
 76B ration of 40 days after the date of the acquisition***[.]*** *,*

76C *All securities of the same class beneficially owned by a person,
 76D regardless of the forms the beneficial ownership takes, shall be
 76E aggregated in calculating the number of shares beneficially owned
 76F by the person.*

77 b. "Capital stock savings bank" means any savings bank char-
 78 tered pursuant to the provisions of P. L. 1982, c. 9 (C. 17:9A-8.1
 79 et seq.).

80 c. "Commissioner" means the Commissioner of Banking.

81 d. "Control of a capital stock savings bank" includes:

82 (1) Owning, beneficially or otherwise, controlling, or hav-
 83 ing power to vote 5% or more of the outstanding shares of any
 84 class of voting securities of a capital stock *savings* bank,
 85 directly or indirectly, or acting through one or more persons;

86 (2) Controlling in any manner the election of a majority of
 87 the directors of a capital stock savings bank;

88 (3) Exercising or having the power to exercise directly or
 89 indirectly a controlling influence over the management or
 90 policies of a capital stock savings bank; or

91 (4) Conditioning in any manner the transfer of 5% or more
 92 of any class of voting securities of a capital stock savings
 93 bank;

94 "Control of a capital stock savings bank" does not include a di-
 95 rector or officer of a **capital stock** savings bank acting in the
 96 capacity of performing his duties or responsibilities of office.

97 ****[e.]**** "Control transaction" means ***[the]*** **an** acquisition,
 98 by a person or group, or a group of persons acting in concert,
 99 which will result in the person or group achieving the status of a
 99A controlling person.

100 f. "Controlling person" means a person or group, or a group of
 101 persons acting in concert, which has voting power over voting
 102 shares of a **capital stock** savings bank which would entitle the
 103 holders thereof to cast 25% of the aggregate number shares which
 104 all holders of voting shares of the **capital stock** savings bank
 105 would be ***[entitled]*** **entitled** to cast in an election of directors of
 106 the **capital stock** savings bank, except a person shall not be a
 107 controlling person if **(1)** the person holds voting power in good
 108 faith and not for the purpose of circumventing this ***[section]***
 109 **act**, as an agent, bank, broker, nominee, or trustee for one or more
 110 beneficial owners who do not individually or, ***[if they are]*** **as**
 111 a group acting in concert, ***[as a group]*** have control of 25% of
 112 the aggregate number of votes which all holders of voting shares
 113 of the **capital stock** savings banks would be entitled to cast in an
 113A election of directors of the **capital stock** savings bank **or (2) if*
 113B *the person is a newly-formed holding company owned by the pre-*
 113C *vious stockholders of the capital stock savings bank without change*
 113D *in their respective ownership percentage other than to reflect*
 113E *dissenters' appraisal rights*.*******

114 ****[g.]**** **e.** "Converted savings bank" means an organizing
 115 mutual savings bank which has converted to a capital stock savings
 116 bank pursuant to the provisions of P. L. 1982, c. 9 (C. 17:9A-8.1
 117 et seq.) subsequent to the formation of a mutual savings bank
 118 holding company.

119 ****[h.]**** **f.** "Mutual savings bank holding company" means
 120 a mutual savings bank holding company which has **its principal*
 121 *office of business in this State and which has** been formed by an
 122 organizing mutual savings bank pursuant to sections ***[12 or 31]***
 123 ***[*11]*** **7** through ***[32]*** **27** of this act.

124 ****[i.]**** **g.** "Organizing mutual savings bank" means a
 125 mutual savings bank **which has its principal office of business in*
 126 *this State**, the board of managers of which purpose to form a
 127 mutual savings bank holding company pursuant to the provisions
 128 of this act.

129 **[j.]** **h.** “Person” means an individual, bank,* corpora-
 130 tion, savings bank, savings and loan association, partnership, trust,
 131 association, joint venture, pool, syndicate, sole proprietorship, un-
 132 incorporated organization, or any form of entity.

133 **[k.]** **i.** “Subsidiary capital stock savings bank” means
 134 a capital stock savings bank which has been incorporated by the
 135 directors of a mutual savings bank holding company, a majority of
 136 the stock of which subsidiary capital stock savings bank is held
 137 by a mutual savings bank holding company.

138 **[l.]** **j.** “Voting power” means that a person has or
 139 shares, directly or indirectly, through any option, contract, ar-
 140 rangement, understanding, conversion right or relationship, or by
 141 acting jointly or in concert or otherwise, the power to vote, or to
 142 direct the voting of * [the] * voting shares.

143 **[m.]** **k.** “Department” means the Department of
 144 Banking.

145 * ** [n.] ** **l.** “*Capital stock savings bank holding com-*
 146 *pany*” means a bank holding company that has issued or intends
 147 to issue voting capital stock**; and which controls one or more
 148 savings banks located in this State or any other state, the aggre-
 149 gate deposits of which controlled savings banks exceed the aggre-
 150 gate deposits of the bank holding company’s subsidiaries which
 151 are banks, banks incorporated in other states or national banks
 152 wherever their principal office is located**.

153 ** [o.] ** **m.** “Bank holding company” means a bank holding
 154 company subject to the “Bank Holding Company Act of 1956,”
 155 70 Stat. 133 (12 U. S. C. **§** 1841 et seq.)** [, which has its
 156 principal office of business in this State] **.*

157 **n.** “Bank” means a bank as defined in subsection (1) of section
 158 1 of P. L. 1948, c. 67 (C. 17:9A-1), a national banking association
 159 having its principal office in this State and a bank holding com-
 160 pany.**

1 2. (New section) No person shall, without the prior approval of
 2 the commissioner, acting directly or indirectly or through or in
 3 concert with one or more persons:

- 4 a. Obtain or exercise control of a capital stock savings bank;
- 5 b. Offer to acquire beneficial ownership or control of any voting
 6 shares of a capital stock savings bank if, after the acquisition,
 7 the person would beneficially own or control more than 5% of the
 8 then-outstanding voting shares of the capital stock savings bank; or
- 9 c. Acquire beneficial ownership or control of any voting shares
 10 of a capital stock savings bank, if, after the acquisition, the per-
 11 son would beneficially own or control more than 5% of the then-

12 outstanding **voting** shares of the capital stock ***[sacings]*** **sav-*
 13 *ings** bank.

1 3. (New section) a. An application by a person for the approval
 2 of the commissioner to obtain control of a capital ***[sock]*** **stock**
 3 savings bank, to offer to acquire beneficial ownership or control of
 4 more than 5% of the voting shares of a capital stock savings bank,
 5 or to acquire beneficial ownership or control of more than 5% of the
 6 voting shares of a capital stock savings bank shall be made on a
 7 form provided by the commissioner. The commissioner shall give
 8 notice to the capital stock savings bank involved in the proposed
 9 transaction and shall send a copy of the application to the capital
 10 stock savings bank within five business days of receiving the ap-
 11 plication. The notice shall include the hearing date established
 12 pursuant to subsection b. of this section.

13 **No later than 10 days after the date upon which a completed*
 14 *application is filed with the commissioner, the applicant shall cause*
 15 *to be published a notice of application for control of a capital stock*
 16 *savings bank. This publication shall be made in a newspaper of*
 17 *general circulation in the county in which the capital stock savings*
 18 *bank has its principal office. The notice shall include whatever in-*
 19 *formation the commissioner, by regulation, deems to be necessary*
 20 *and appropriate.**

21 b. The commissioner shall hold a hearing on the application
 22 within ***[30]*** **60** days of receipt of the completed application,
 23 and shall notify the applicant as to the date of the hearing at the
 24 time the application is ***[submitted]*** **filed**. The hearing shall be
 25 held in accordance with rules and regulations promulgated by the
 26 commissioner.

27 ***[c. No later than 20 days prior to the hearing the applicant shall**
 28 **public a notice of the hearing in an newspaper of general circula-**
 29 **tion in the county in which the capital stock savings bank has its**
 30 **principal office.]***

1 4. (New section) In determining whether to approve an acquisi-
 2 tion of shares or offer to acquire shares pursuant to section 2 of
 3 this act, the commissioner shall consider the following factors:

4 a. With respect to the applicant:

5 (1) The financial condition and the resources of the applicant;

6 (2) The competence, character, and banking experience of the
 7 applicant, including the applicant's record of compliance with laws
 8 and regulations;

9 (3) Whether the applicant has (i) employed any device, scheme
 10 or artifice to defraud; or (ii) obtained or will obtain any money
 11 or property by means of any untrue statement of a material fact

12 or any omission of a material fact; or (iii) engaged in any act,
 13 transaction, practice or course of business which operates or would
 14 operate as a fraud or deceit upon the capital stock savings bank,
 15 the shareholders of the capital stock savings bank, the depositors
 16 thereof, or the public at large; ***and***

17 ****[(4)]**** In the event of a tender offer for shares, the fairness of
 18 the price to be paid by the applicant for the shares to be acquired;
 18A and**]******

19 ****[(5)]**** *** (1) *** The applicant's plans and intentions with
 20 respect to the operation of the capital stock savings bank.

21 b. With respect to the capital stock savings bank;

22 (1) The financial condition and ***[future]*** prospects of the
 23 capital stock savings bank, which shall include consideration as to
 24 the sufficiency of current or projected capital positions, as well as
 25 the level of indebtedness of the capital stock savings bank before
 26 and after the acquisition;

27 (2) The convenience and needs of the depositors and the com-
 28 munities served by the capital stock savings bank; ***and***

29 ****[(3)]**** Whether the acquisition would substantially lessen compe-
 30 tition, tend to create a monopoly, create a monopoly or in any other
 31 manner be a restraint of trade, except that the commissioner may
 32 find that any anti-competitive effects of the transaction are clearly
 33 outweighed by the probable effect of the transaction and needs of
 34 the community as well as the safety and soundness of the capital
 35 stock savings bank in question; and**]******

36 ****[(4)]**** *** (3) *** The effect of the proposed acquisition on the
 37 safety and soundness of the capital stock savings bank;

38 c. ***[In no event shall the commissioner approve an]** ** Whether*
 39 *approval of the** application ***[which]*** would result in a person
 40 owning more shares than are permitted by the capital stock savings
 41 bank's charter or bylaws*, *in which case the commissioner shall not*
 41A *approve the application; except that this subsection shall not apply*
 41B *to an application for the acquisition of shares of a capital stock*
 41C *savings bank that the commissioner determines is in an unsafe or*
 41D *unsound condition**;

41 ***[d.]*** In the event the commissioner grants approval of an
 42 acquisition of shares as described in subsection a. of this section, the
 43 approval shall apply only to the specific transaction set forth by
 44 the applicant in his application, and any subsequent acquisition
 45 which would further increase the applicant's beneficial ownership
 46 or control of the then-outstanding voting shares of the capital
 47 stock savings bank shall require the commissioner's prior approval
 48 in the same manner required under this act. ***[In no event shall**

49 the commissioner approve an application which would result in
 50 a person owning more shares than are permitted by the capital
 51 stock savings bank's charter or bylaws.】*

1 5. (New section) a. Any shares in excess of 5% of the outstand-
 2 ing voting shares of a capital stock savings bank which are ac-
 3 quired in violation of sections 2 through 4 of this act shall not be
 4 eligible to be voted and shall not be counted in determining the
 5 number of shares outstanding for the purpose of determining the
 6 number or percent of shares required for shareholder action.

7 b. All shares of stock in a capital stock savings bank shall be
 8 registered in the name of the true owner of the shares, and if held
 9 as nominee or in trust or otherwise for the benefit of any other
 10 person, the person listed as registered owner shall disclose to the
 11 capital stock savings bank the names and addresses of all per-
 12 sons who hold a beneficial interest in the shares on written demand
 13 by the capital stock savings bank.

1 6. (New section) a. Whenever it appears to the commissioner
 2 that any person has engaged in or is about to engage in any act
 3 or practice which constitutes a violation of sections 2 through 5
 4 of this act or any regulations promulgated pursuant thereto, the
 5 commissioner may conduct an investigation and issue cease and
 6 desist orders if he deems it necessary. In addition to all other
 7 remedies*,* the commissioner may bring an action in the Superior
 8 Court, Law Division on behalf of the State against any person or
 9 persons participating in or about to participate in a violation. In
 10 any court proceeding, the commissioner may apply for and shall
 11 be entitled to have issued the court's subpoena requiring the ap-
 12 pearance of any defendant and the defendant's employees or
 13 agents, and the production of documents, books and records as may
 14 be necessary for the hearing of the action. Upon a proper show-
 15 ing, the court may grant a permanent or preliminary injunction
 16 or temporary restraining order or may order the rescission of any
 17 *【sales】* **sale**, *【tenders】* **tender** for sale, purchase or
 18 *【tenders】* **tender** for purchase of equity securities determined
 19 to be unlawful under sections 2 through 5 of this act.

20 b. Whenever any person has engaged in or is about to engage in
 21 any act or practice which constitutes a violation of sections 2
 22 through 5 of this act or any regulation or order issued thereunder,
 23 the capital stock savings bank or any record or beneficial owner
 24 of an equity security of the capital stock savings bank may bring
 25 an action to enjoin the person from continuing or doing any act in
 26 violation of this act. Upon a proper showing, the court may grant
 27 a permanent or preliminary injunction or temporary restraining

28 order or may order the rescission of any **[sales]** *sale*,
 29 **[tenders]** *tender* for sale, **[purchases]** *purchase* or
 30 **[tenders]** *tender* for purchase of equity securities determined
 31 to be unlawful under this act or under any regulation or order of
 31A the commissioner.

32 c. Any person who knowingly violates any provision of sections
 33 2 through 5 of this act may be imprisoned for a period not to ex-
 34 ceed one year, or fined an amount not to exceed \$100,000.00*,* or
 34A both.

35 d. (1) In addition to any other penalties herein or otherwise
 36 provided by law, the commissioner may, upon notice and hearing
 37 impose a penalty not exceeding \$10,000.00 for any violation of
 38 sections 2 through 5 of this act or of any rule or regulation promul-
 39 gated thereto. The penalty shall be recovered by and in the name
 40 of the commissioner in a civil action by a summary proceeding
 41 under ****** the **[“]** *penalty enforcement law,* N. J. S.
 42 2A:58-1 et seq., in the Superior Court, Law Division. Where any
 43 violation of section 2 through 5 of this act or of any regulation
 44 hereunder is of a continuing nature, each day during which the
 45 violation continues shall constitute an additional, separate and
 46 distinct offense, except during the time an appeal from the order
 47 or notice may be taken or is pending.

48 (2) Section 2 through **[10]** *6* of this act shall apply to
 49 all capital stock savings banks organized pursuant to P. L. 1982,
 50 c. 9 (C. 17:9A-8.1 et seq.) whether chartered prior to or after the
 51 enactment of this act. **[No]** *Any* person **[on]** *who*
 52 *prior to* the effective date of this act **[who]** directly or
 53 indirectly, beneficially **[owns]** *owned* or **[controls]**
 54 *controlled* more than 5% of the outstanding voting shares of a
 55 capital stock savings bank **[shall]** *may* continue such
 56 ownership **[for more than 120 days after the effective date of**
 57 **this act without the approval of the commissioner obtained in**
 58 **accordance with section 3 of this act]** *after the effective date*
 59 *of this act without approval of the commissioner*. **[The com-**
 60 **missioner may on a showing of hardship extend such time, pro-**
 61 **vided, however, that no such extension shall exceed 60 days, and**
 62 **that there be no more than one extension.]** This act shall not be
 63 construed to limit the applicability of any law governing the acqui-
 64 sition of securities.

65 **(3) Sections 2 through 6 of this act shall not apply to any*
 66 *merger of a capital stock savings bank with another capital stock*
 67 *savings bank or mutual savings bank. The provisions of P. L. 1982,*
 68 *c. 9 (C. 17:9A-8.1 et seq.) and sections 132 through 143 of P. L.*

69 1948, c. 67 (C. 17:9A-132 to C. 17:9A-148) shall be the exclusive
70 governing provisions.

71 (4) Notwithstanding any other law of this State, the provisions
72 contained in sections 2 through 6 of this act shall also apply to an
73 acquisition of voting shares of a bank or company which controls
74 a bank by a savings bank or a savings bank holding company if,
75 after the acquisition, the savings bank or savings bank holding
76 company would beneficially own or control more than 5% of the
77 outstanding voting shares of the bank or company which controls a
78 bank. For the purpose of this paragraph (4), "savings bank"
79 means any capital stock savings bank or mutual savings bank
80 chartered under the laws of this State; "savings bank holding
81 company" means any company located in this State which controls
82 a savings bank and does not also control a bank; and "bank" shall
83 have the same definition as provided in subsection (1) of section 1
84 of P. L. 1948, c. 67 (C. 17:9A-1) and shall also include a national
85 banking association having its principal office in this State.**

1 **[7. (New section) In addition to complying with the other pro-
2 visions contained in sections 2 through 10 of this act, a controlling
3 person shall, *[within]* *at least* 10 days *[of]* *prior to* a
4 control transaction, give notice of the control transaction by certified
5 mail to each shareholder of record of the capital stock savings
6 bank, whether or not the shareholder is entitled to vote. If the
7 controlling person requests, the capital stock savings bank shall,
8 at its option and at the expense of the controlling person, either
9 furnish a list of all shareholders of record to the controlling person,
10 or mail the notice required by this section to all shareholders of
11 record. A notice sent pursuant to this section shall include a copy
12 of this section and section 8 of this act.]**

1 **[8. (New section) a. After the occurrence of a control trans-
2 action, any holder of voting shares of a capital stock savings bank
3 may, either prior to or within 20 days after the mailing of the notice
4 of the control transaction required by section 7 of this act, make
5 written demand upon the controlling person for the fair value of
6 his shares, as provided in subsection b. of this section. Upon the
7 written demand of the shareholder, which shall state the number
8 of shares and the class and series of shares held by him, the con-
9 trolling person shall agree to pay the fair value of the shares to
10 the shareholder, upon the surrender of the share certificate or
11 certificates representing the shares.

12 b. A shareholder entitled to make written demand pursuant to
13 subsection a. of this section shall be entitled to receive cash for
14 each of his shares from the controlling person in an amount equal

15 to the fair value of each voting share as of the day prior to the
 16 date on which the control transaction occurred. For the purposes
 17 of this act, the fair value shall be determined in the same manner
 18 as for dissenting shareholders' shares pursuant to article 21 of
 19 P. L. 1948, c. 67 (C. 17:9A-132 through C. 17:9A-148), but a de-
 20 termination of fair value shall also be deemed to include a con-
 21 sideration of all relevant factors attendant to the control transac-
 22 tion, including an increment representing a proportion of any
 23 value payable for acquisition of control of the capital stock savings
 24 bank. ***[For the purposes of chapter 11 of Title 14A of the New**
 25 **Jersey Statutes, the date of the notice of the control transaction**
 26 **shall be deemed to be the effective date of the plan, and the con-**
 27 **trolling person or group shall be deemed to be the capital stock**
 28 **savings bank for the purposes of this section. The provisions of**
 29 **N. J. S. 14A:11-1 shall not apply to any demand made pursuant**
 30 **to this section.]***

31-32 c. Nothing in this section shall be construed to preclude a con-
 33 trolling person from offering to purchase voting shares of the
 34 capital stock savings bank at a price other than that provided in
 35 subsection b. of this section, or to preclude any shareholder from
 36 agreeing to sell his voting shares at that or any other price to any
 37 person, unless otherwise prohibited by law or the capital stock
 38 savings bank's charter or bylaws.]**

1 ****[9. (New section) Unless the bylaws of a capital stock savings**
 2 **bank, by an amendment adopted within 90 days after the date of**
 3 **enactment of this act, or the articles of incorporation of the capital**
 4 **stock savings bank explicitly provide that sections 7 and 8 of this**
 5 **act shall not be applicable to the capital stock savings bank, any**
 6 **holder of shares of a capital stock savings bank which becomes**
 7 **the subject of a control transaction shall have the rights and reme-**
 8 **dies provided by this act.]****

1 ****[10. (New section) Sections 7 and 8 of this act shall not apply**
 2 **to any person who inadvertently becomes a controlling person, if**
 3 **the controlling person, as soon as practicable, divests itself of a**
 4 **sufficient amount of its voting shares so that it is no longer a con-**
 5 **trolling person.]****

1 ****[11.]** **7.**** (New section) The board of managers of an
 2 organizing mutual savings bank, by 2/3 vote of the board, may
 3 apply to the commissioner to form a mutual savings bank holding
 4 company which may be formed in accordance with either subsection
 5 a., b., ***[of]*** *or* c. of this section:

6 a. The board of managers of an organizing mutual savings bank
 7 may incorporate a mutual savings bank holding company pursuant

8 to the provisions of section **12** **8** of this act, and subse-
8A quently:

9 (1) Convert to a capital stock savings bank pursuant to section
10 **31** **26** of this act; or

11 (2) If the mutual savings bank holding company has formed a
12 subsidiary capital stock savings bank pursuant to section **20**
13 **16** through **29** **24** of this act, either **(1)** *(i)*
14 merge with the subsidiary capital stock savings bank *pursuant to*
15 *section 30 25 of this act* or **(2)** *(ii)* sell *or*
16 *transfer* its assets *and liabilities* to the subsidiary capital
16A stock savings bank and dissolve pursuant to article 32 of P. L.
16B 1948, c. 67 (C. 17:9A-207); or

17 b. The board of managers of an organizing mutual savings bank
18 may form a mutual savings bank holding company by:

19 (1) Incorporating a subsidiary capital stock savings bank pur-
20 suant to sections **20** **16** through **29** **24** of this
20A act; and

21 (2) Transferring the substantial part of the organizing mutual
22 savings bank's assets and liabilities, including all of its **in-**
23 **sured** *deposits* liabilities, to the subsidiary capital stock
24 savings bank in return for a majority of the capital stock of the
25 subsidiary capital stock savings bank in accordance with section
26 **21** **17** of this act. Capital **assets** *deposits and*
27 *surplus* in an amount approved by the commissioner may be
28 retained by the organizing mutual savings bank, which shall be
29 deemed a mutual savings bank holding company, if it follows the
29A procedures set forth in section **32** **27** of this act; or

30 c. The board of managers of an organizing mutual savings bank
31 may form a mutual savings bank holding company by any other
32 method of reorganization approved by the commissioner.

1 **12.** **8.** (New section) a. The board of managers of the
2 organizing mutual savings bank shall execute a certificate of in-
3 corporation for the mutual savings bank holding company stating:

4 (1) The name by which the mutual savings bank holding com-
5 pany shall be known;

6 (2) The street, street number, and municipality where the
7 principal office of the mutual savings bank holding company is
8 to be located;

9 (3) The names and addresses of the trustees of the organizing
10 mutual savings bank;

11 (4) The number of trustees of the mutual savings bank holding
12 company;

13 (5) The names of persons who are to act as trustees of the
14 mutual savings bank holding company, until their successors are
15 elected and qualified;

16 (6) The amount of capital deposits and surplus which are to
17 be transferred from the organizing mutual savings bank to the
18 mutual savings bank holding company; and

19 (7) Any other provisions as the incorporators of the mutual
20 savings bank holding company deem necessary, or as are required
21 by the commissioner by regulation.

22 b. The certificate of incorporation of a mutual savings bank
23 holding company shall provide ***[a means of equalizing or adjusting**
24 **the]** **for the retention of any** interests of the respective depos-
25 itors of the organizing mutual savings bank in the ***[surplus and**
26 **other]** **assets of the organizing mutual savings bank, according to*
27 *a fair valuation, ****[which]** ****including**** ***[surplus and other]***
28 *assets ****which**** are proposed to be transferred from the or-*
29 *ganizing mutual savings bank to the mutual savings bank holding*
29A *company.*

30 c. The certificate of incorporation of the mutual savings bank
31 holding company shall also provide that a liquidation account
32 shall be established, on terms established ****[and]** ****or**** ap-
33 proved by the commissioner ****[**, in the event of a dissolution of the
34 mutual savings bank holding company, the conversion of the mutual
35 savings bank holding company to a capital stock ***[savings]** **bank*
36 *holding company, or the sale of the subsidiary capital stock savings*
37 *bank, or its successor, which was incorporated as part of the*
38 *formation of a mutual savings bank holding company] ****.***

1 ****[13.]**** ****9.**** (New section) If the commissioner determines
2 that the establishment of a mutual savings bank holding company
3 is in the best interests of the depositors of the organizing mutual
4 savings bank, that the qualifications, experience and character
5 of the proposed officers and directors of the mutual savings bank
6 holding company are sufficient to result in the successful operation
7 of the mutual savings bank holding company, and that the in-
8 terests of the public will be served by the establishment of a
9 mutual savings bank holding company, that the mutual savings
10 bank holding company is adequately capitalized, and that the
11 establishment of the mutual savings bank holding company other-
12 wise meets the requirements of law, he may approve the charter.

1 ****[14.]**** ****10.**** (New section) a. The general powers of the
2 mutual savings bank holding company shall be those powers con-
3 ferred on corporations pursuant to the provisions of N. J. S.
4 14A:3-1, N. J. S. 14A:3-2, N. J. S. 14A:3-4, and N. J. S. 14A:3-5.

5 Mutual savings bank holding companies shall be subject to the
6 requirements of chapter 4 of Title 14A of the New Jersey Statutes,
7 article 28 of P. L. 1948, c. 67 (C. 17:9A-188 through C. 17:9A-195),
8 article 29 of P. L. 1948, c. 67 (C. 17:9A-196) and article 30 of P. L.
9 1948, c. 67 (C. 17:9A-197 and C. 17:9A-198), to the extent that
10 those requirements do not conflict with the provisions of this act.

11 b. In addition to other activities authorized by law for a mutual
12 savings bank holding company, a mutual savings bank holding
13 company may:

14 (1) ***[Merge]*** **With the prior approval of the commissioner,*
15 *merge** with or into, or consolidate with, another mutual savings
16 bank holding company or capital stock ***savings*** bank holding
16A company;

17 (2) ***[Incorporate]*** **With the prior approval of the commis-*
17A *sioner, incorporate** a new subsidiary capital stock savings bank
18 pursuant to the provisions of sections ****[20]**** ***16*** through
19 ****[29]**** ***24*** of this act; except that paragraph (4) of sub-
20 section (a) of section ****[21]**** ***17*** of this act shall not apply to
20A such subsidiary **capital** stock savings bank;

21 (3) ***[Convert]*** **With the prior approval of the commissioner,*
22 *convert** itself into a capital stock ***savings*** bank holding com-
23 pany, pursuant to applicable provisions of this act ****[and regula-**
23A **tions of the commissioner]****;

24 (4) Issue capital debentures, which shall be legal investments
25 for banks, savings banks, savings and loan associations; and

26 ****[(5) Exercise any power or engage in any activity authorized**
27 **for a bank holding company, savings and loan holding company,**
28 **or mutual holding company by federal or state law or regula-**
28A **tion.]****

28B **** (5) Exercise such power or engage in such activity authorized**
28C **for a bank holding company or savings and loan holding company**
28D **as the commissioner shall by regulation permit.****

29 c. The commissioner may exercise any of the powers vested in
30 him by article 42 of P. L. 1948, c. 67 (C. 17:9A-266 et seq.) with
31 respect to the affairs of the mutual savings bank holding company.

32 **The mutual savings bank holding company **or capital stock*
33 *savings bank holding company** shall be subject to the require-*
34 *ments of subsection a. of section 2, section 3, and section 5 of P. L.*
35 *1986, c. 6.* **Whenever in said sections the term "bank holding*
36 *company" is used it shall be deemed to refer also to a mutual*
37 *savings bank holding company or a capital stock savings bank*
38 *holding company and the term "bank" shall be deemed to refer*
39 *also to a savings bank.*

40 *d. Notwithstanding the provisions of subsection b. of this section,*
 41 *or the provisions of P. L. 1986, c. 5 (C. 17:9A-370 et seq.), a mutual*
 42 *savings bank holding company or a capital stock savings bank*
 43 *holding company shall not be granted authority to exercise any*
 44 *powers granted to a bank holding company pursuant to P. L. 1986,*
 45 *c. 5.***

1 ****[15.]**** ****11.**** (New section) Every mutual savings bank
 2 holding company shall be managed by a board of not less than six
 3 nor more than 21 directors. Directors shall be elected by a plurality
 4 of the members of the board of directors of the mutual savings
 5 bank holding company at the annual meeting, for a term of up to
 6 three years, as provided in the bylaws. Each director shall serve
 7 for the term for which he is elected and until his successor is
 8 elected and has qualified. A vacancy on the board of directors may
 9 be filled by a plurality of the members of the board of directors for
 10 the remainder of the unexpired term. If the board fails to fill the
 11 vacancy within one year, the commissioner may do so. Elections
 12 of directors shall be certified by the board and shall be filed
 13 with the department within 15 days.

14 The board of directors shall hold an annual meeting within
 15 the first four months of each calendar year, and other meetings
 16 at such times and so often as they shall deem necessary. The
 17 annual meeting shall be held at a location within the State. A
 18 majority of a quorum of the board of directors shall be neces-
 19 sary to transact the business of the board.

1 ****[16*.]**** ****12.**** (New section) a. The board of directors of
 2 every mutual savings bank holding company shall have the power
 3 to make, amend and repeal bylaws not inconsistent with this act,
 4 providing for:

- 5 (1) The management of ***[the]*** *its* property.
- 6 (2) The regulation and government of its affairs;
- 7 (3) The terms of office, manner of appointment, and the duties
 8 and powers of *its* officers and committees; and
- 9 (4) Such other matters as the board from time to time deems
 10 advisable.

11 b. The bylaws may provide for and the board may elect an
 12 executive committee of the board, and other committees as the
 13 board may deem advisable. The executive committee may exercise
 14 all of the powers of the board, except that the executive com-
 15 mittee may not:

- 16 (1) Exercise its powers while a quorum of the board is actually
 17 convened for the conduct of business;

18 (2) Declare a dividend or approve any other distribution to
19 the parties in interest;

20 (3) Make, alter, or repeal the bylaws of the holding company;

21 (4) Elect or appoint any officer or director; or

22 (5) Exercise any other power which this act specifically pro-
23 vides shall be exercised by at least a majority of all the directors.

24 The minutes of each meeting of the executive committee shall
25 be presented to the board of directors at its next meeting fol-
26 lowing the meeting of the executive committee.

1 ****[17.]** **13.**** (New section) At the first meeting of the board
2 of directors of the mutual savings bank holding company following
3 each annual meeting, the board may elect a Chairman of the Board,
4 and shall elect a President, either of whom may be chief executive
5 officer, or another officer whom it may designate to be chief execu-
6 tive officer, all of whom shall be directors, and a Secretary and
7 a Treasurer, neither of whom need be directors. Other officers
8 of the mutual savings bank holding company may be appointed
9 from time to time by the directors, as provided in the bylaws.

10 Reasonable compensation may be paid to directors of the mutual
11 savings bank holding company for attendance at meetings of the
12 board, or for service upon committees, or for other service ren-
13 dered, and shall be fixed from time to time by a vote of a majority
14 of the board. The commissioner may direct that the amount of
15 compensation paid to directors of *any* mutual savings bank hold-
16 ing **[companies]** *company* be reduced if in his judgment it is
16A excessive.

17 A mutual savings bank holding company may pay its officers
18 any reasonable compensation as may be from time to time fixed
19 by the board of directors. The commissioner may direct that
20 the amount of compensation be reduced if in his judgment it is
21 excessive.

1 ****[18*.]** **14.**** (New section) The board of directors of the
2 mutual savings bank holding company may, from time to time, by a
3 majority vote of the directors, divide equitably any surplus which
4 may be in excess of the amount required for the operations of the
5 mutual savings bank holding company or to maintain the safety
6 and soundness of the *mutual savings bank* holding company, and
7 distribute the same to the respective depositors of its subsidiary
8 capital stock savings bank or banks, in the manner prescribed by
9 this act**, *and with the approval of the commissioner***. The com-
10 missioner may, if he deems the surplus held by a mutual savings
11 bank holding company to be excessive, order such a distribution to
12 be made by the directors.

1 **[19.]** **15.** (New section) Upon the formation of a mutual
2 savings bank holding company pursuant to the provisions of this
3 act, the *[interests of the]* depositors of the organizing mutual
4 savings bank *[in the organizing mutual savings bank's surplus or
5 other assets shall be converted into interests of the same nature in
6 the surplus or other assets of the mutual savings bank holding com-
7 pany and, upon the merger of the organizing mutual savings bank
8 into a subsidiary capital stock savings bank pursuant to section
9 29 of this act, or the conversion of the organizing mutual savings
10 bank into a subsidiary stock savings bank pursuant to section 31
11 of this act, the depositors of the respective subsidiary capital
12 stock savings banks shall have these]* *shall retain the same inter-
13 ests in the assets of the mutual savings bank holding company as
14 they had in the organizing mutual savings bank and, upon the
15 reorganization of an organizing mutual savings bank into a mutual
16 savings bank holding company and a subsidiary **capital** stock
17 savings bank pursuant to this act, the depositors of the subsidiary
18 capital stock savings bank shall retain the same* interests in the
19 mutual savings bank holding company. Any interest in the **[sur-
20 plus or other]** assets of the mutual savings bank holding com-
21 pany which are placed in a liquidation account as provided in
22 section **[12]** *s* of this act shall be for the benefit of the
23 depositors of the organizing mutual savings bank, or the depositors
24 of the subsidiary capital stock savings bank, as the case may be.
25 Upon the merger or consolidation of a mutual savings bank holding
25A company *or capital stock savings bank holding company* with
26 another mutual savings bank holding company, the merger or
27 consolidation agreement shall provide *[a means of equalizing or
28 adjusting the]* *for the retention of any* interests of the respective
29 depositors of the subsidiary capital stock savings bank or banks in
30 the *[surpluses and other]* assets of the merged or consolidated
31 mutual savings bank holding companies according to a fair valua-
32 tion, as **[determined]** *approved* by the commissioner
33 **[by regulation]**.

1 **[20.]** **16.** (New section) The directors of a mutual
2 savings bank holding company which has been established pursuant
3 to sections **[11]** *s* through **[19]** **15** of this act may
4 apply to the commissioner to incorporate a capital stock savings
5 bank in accordance with this section through section **[29]**
6 **24** of this act, as a subsidiary of the mutual savings bank
7 holding company. They shall issue a certificate of incorporation
7A stating:

- 8 a. The name by which the subsidiary capital stock savings bank
9 shall be known;
- 10 b. The street, street number and municipality in which the
11 principal office of the subsidiary capital stock savings bank is
12 to be located;
- 13 c. The names and addresses of the directors of the mutual
14 savings bank holding company who will be the incorporators of
15 the subsidiary capital stock savings bank;
- 16 d. The number of directors on the board of directors;
- 17 e. The names of the persons who will serve as directors until
18 their successors are elected and qualified;
- 19 f. The amount of capital stock, the number of shares into which
20 it is divided, and the par value of each share, not less than a
21 majority of the total outstanding shares of which shall be held
22 in the name of the mutual savings bank holding company; and
- 23 g. The amount of surplus with which the subsidiary capital
24 stock savings bank will commence business.

1 ****[21.]**** ****17.**** (New section) a. The certificate of incorpora-
2 tion of every subsidiary capital stock savings bank established
3 pursuant to this act shall be submitted to the commissioner within
4 60 days after its execution, together with an affidavit made by
5 each of its incorporators, setting forth:

6 (1) That no fee, commission, or other compensation has been
7 paid, directly or indirectly, by the mutual savings bank holding
8 company or by the subsidiary capital stock savings bank in the
9 course of organizing the subsidiary capital stock savings bank,
10 and that no promotion fees or charges have been provided or
11 are contemplated;

12 (2) A complete disclosure of all fees paid or agreed to be paid
13 in the matter of chartering and organizing the proposed sub-
14 sidiary capital stock savings bank;

15 (3) That at least a majority of the shares of the authorized
16 stock of the subsidiary capital stock savings bank is held by
17 the mutual savings bank holding company; and

18 (4) That the subsidiary capital stock savings bank proposes to:

19 (a) Merge with the organizing mutual savings bank pursuant
20 to section ****[30]**** ****25**** of this act; or

21 (b) Purchase the assets of the organizing mutual savings bank
22 pursuant to section ****[30]**** ****25**** of this act; or

23 (c) Receive the assets and liabilities of the organizing mutual
24 savings bank pursuant to subparagraph (2) of subsection b. of
25 section ****[11]**** ****7**** of this act.

26 b. The commissioner may grant a certificate of authority to
 27 a subsidiary capital stock savings bank pursuant to the provisions
 28 of section 14 of P. L. 1948, c. 67 (C. 17:9A-14).

1 ****[22.]** **18.**** (New section) If the commissioner determines
 2 that the qualifications, experience and character of the proposed
 3 officers and directors of the subsidiary capital stock savings bank
 4 are sufficient to result in the successful operation of the subsidiary
 5 capital stock savings bank, and that the interests of the public
 6 will be served by the establishment of the subsidiary capital
 7 stock savings bank, and that the capital stock of the subsidiary
 8 capital stock savings bank is in accordance with the amount re-
 9 quired for banks pursuant to section 4 of P. L. 1948, c. 67 (C.
 10 17:9A-4), he may approve the charter.

1 ****[23.]** **19.**** (New section) a. The stockholders of a sub-
 2 sidiary capital stock savings bank shall have the power to make,
 3 alter, and repeal bylaws. The directors of the mutual savings bank
 4 holding company which holds stock in the subsidiary capital stock
 5 savings bank shall vote the shares held by the mutual savings bank
 6 holding company.

7 b. If the certificate of incorporation of the subsidiary capital
 8 stock savings bank so provides, the directors of the subsidiary
 9 capital stock savings bank may have the power to make, alter
 10 and repeal bylaws, but any exercise of this power by the board
 11 of directors shall be subject to alteration or repeal by the stock-
 12 holders. The bylaws may contain any provision not inconsistent
 13 with law for the regulation of the affairs of the **subsidiary** capital
 14 stock savings bank.

15 c. If a board of directors is empowered by the bylaws to make,
 16 alter, and repeal bylaws it may not, however, exercise this power
 17 with respect to bylaws:

18 (1) Fixing the number of directors of the subsidiary capital
 19 stock savings bank or the manner and time of determining this
 20 number;

21 (2) Establishing the requirement for calling a special meeting
 22 of the stockholders; or

23 (3) Setting forth the manner in which the bylaws may be
 24 made, altered, or repealed.

1 ****[24.]** **20.**** (New section) Bylaws shall not be made,
 2 altered, or repealed by the stockholders of a subsidiary capital
 3 stock savings bank, except at an annual or special meeting of the
 4 stockholders, and by the affirmative vote of the holders of a ma-
 5 jority of the capital stock of the subsidiary capital stock savings
 5A bank.

6 Bylaws shall not be made, altered or repealed by the board
 7 of directors of the subsidiary capital stock savings bank except
 8 by the affirmative vote of a majority of the whole board at any
 9 regular or special meeting of the board, unless at least two days'
 10 prior written notice of the intended action shall have been given
 11 to the directors. This notice may be waived by a director at or
 12 prior to the meeting.

1 ****[25.]**** ****21.**** (New section) Whenever the board of directors
 2 of a subsidiary capital stock savings bank deems it advisable to
 3 amend the certificate of incorporation, it shall adopt a resolution
 4 setting forth the proposed amendment, which amendment shall be
 5 approved, at a meeting of the stockholders entitled to vote, by at
 6 least 2/3 of the capital stock entitled to vote. If the holders of
 7 2/3 of the shares of capital stock entitled to vote approve the
 8 amendment, a certificate of this approval shall be attested by two
 9 officers of the bank, one of whom shall be the president or vice
 10 president, and shall be submitted to the commissioner for approval.
 11 If the commissioner finds that the amendment is for a purpose
 12 authorized by law, and that all requirements of law have been met
 13 regarding an amendment to a certificate of incorporation, he shall
 14 endorse his approval upon the certificate of amendment, and shall
 15 file it with the department, and the certificate of incorporation
 16 shall thereupon be deemed to be amended.

1 ****[26.]**** ****22.**** (New section) The annual meetings, voting
 2 rights of stockholders, liability of stockholders and the mainte-
 3 nance of a subsidiary capital stock savings bank's books and
 4 records shall be governed by the provisions of article 17 of P. L.
 5 1948, c. 67 (C. 17:9A-79 through C. 17:9A-100).

1 ****[27.]**** ****23.**** (New section) A subsidiary capital stock
 2 savings bank may declare dividends on its capital stock pursuant
 3 to the provisions of section 52 of P. L. 1948, c. 67 (C. 17:9A-52).

1 ****[28.]**** (New section) The issuance of shares of stock in a sub-
 2 sidiary capital stock savings bank to any person other than to a
 3 mutual savings bank holding company shall be pursuant to rules
 4 and regulations ****[of]** **promulgated by** the commissioner.******

1 ****[29.]**** ****24.**** (New section) a. All other powers, rights, and
 2 privileges of a converted savings bank or a subsidiary capital stock
 3 savings bank not expressly provided for in this act shall be
 4 governed by the laws of this State relating to savings banks,
 5 **including the laws relating to capital stock savings banks,** but in
 6 any case where any power of investment of a mutual savings bank
 7 is limited to a percentage of its capital deposits or surplus, any

8 limitation upon a subsidiary capital stock savings bank shall be
 9 expressed in terms of total capital funds, as defined by the com-
 9A missioner by regulations.

10 b. **A subsidiary capital stock savings bank or a converted sav-*
 11 *ings bank may merge with a mutual savings bank or with a capital*
 12 *stock savings bank pursuant to the provisions of Article 21 of P. L.*
 13 *1948, c. 67 (C. 17:9A-132 et seq.).** In the event of the merger of a
 14 subsidiary **capital** stock savings bank or converted savings bank
 15 with another savings bank, in which the resulting savings bank shall
 16 be a subsidiary capital stock savings bank or capital stock savings
 17 bank held by a mutual savings bank holding company, the plan of
 18 merger or consolidation ****[may]**** ****shall**** ***[contain a provi-**
 19 **sion]*** **provide** for the ***[equalization and adjustment of the]***
 20 **retention of any** interests of the depositors of the merging or
 21 consolidating savings bank in the ***[surplus or other]*** assets of
 22 the resulting savings bank's parent mutual savings bank holding
 23 company according to a fair valuation.

1 ****[30.]**** ****25.**** (New section) a. A subsidiary capital stock
 2 savings bank may, pursuant to a plan of merger approved by the
 3 commissioner, merge with the organizing mutual savings bank
 4 ***[pursuant to a plan of merger approved by the commissioner]***
 5 or, pursuant to a plan of consolidation approved by the commis-
 6 sioner, purchase ****or retain**** the assets and assume the liabilities
 7 of the organizing mutual savings bank, whereupon the organizing
 8 mutual savings bank shall dissolve pursuant to the provisions of
 9 article 32 of P. L. 1948, c. 67 (C. 17:9A-207).

10 b. Upon the merger of the organizing mutual savings bank
 11 ***[into]*** **with** the subsidiary capital stock savings bank or the
 12 purchase and assumption of the liabilities of the organizing mutual
 12A savings bank:

13 (1) The corporate existence of the organizing mutual savings
 14 bank shall be merged ***[into]*** **with** that of the subsidiary capital
 15 stock savings bank, and the property and rights of the organizing
 16 mutual savings bank shall vest in the subsidiary capital stock sav-
 17 ings bank without further word or deed;

18 (2) The subsidiary capital stock savings bank may, upon com-
 19 plying with the minimum surplus requirements established by law
 20 or regulation, establish and maintain its principal office and branch
 21 offices at the locations specified in the plan of merger or consolida-
 22 tion;

23 (3) The rights and obligations of the organizing mutual savings
 24 bank shall become the rights and obligations of the subsidiary
 25 capital stock savings bank; and

26 (4) Any pending action by or against an organizing mutual
 27 savings bank or a subsidiary capital stock savings bank shall
 28 survive the merger or consolidation and the subsidiary capital
 29 stock savings bank shall be substituted as a party for the orga-
 30 nizing mutual savings bank.

31 c. The plan of merger or consolidation, may contain a provision
 32 for the adjustment of the interest of the depositors pursuant to
 33 section 201 of P. L. 1948, c. 67 (C. 17:9A-201).

34 d. The plan of merger or consolidation shall provide that each
 35 depositor in the organizing mutual savings bank shall receive an
 36 equivalent account in the subsidiary capital stock savings bank.

1 **[31.]** **26.** (New section) As an alternative to the forma-
 2 tion of a subsidiary capital stock savings bank pursuant to the
 3 provisions of sections **[20]** **16** through **[29]** **24**
 4 of this act, an organizing mutual savings bank which has estab-
 5 lished a mutual savings bank holding company pursuant to sections
 6 **[11]** **7** through **[19]** **15** of this act may, in
 7 accordance with a plan approved by the commissioner, ***[may]***
 8 convert to a capital stock savings bank pursuant to the provisions
 8A of P. L. 1982, c. 9 (C. 17:9A-8.1 et seq.), except *that*:

9 a. Not less than a majority of the shares of the converted savings
 10 bank shall be held in the name of the mutual savings bank hold-
 11 ing company; *and*

12 **[b.]** The issuance of shares of stock in a converted capital stock
 13 savings bank held by a mutual savings bank holding company to
 14 any person other than the mutual savings bank holding company
 15 shall be pursuant to rules and regulations of the commissioner;
 16 **and]**

17 **[c.]** *b.* **[In the event of the merger or consolidation of**
 18 **a capital stock savings bank held by a mutual savings bank holding**
 19 **company with another savings bank, the depositors of the merging**
 20 **or consolidating savings bank shall be deemed to be beneficial**
 21 **owners of a pro rata share in the merged or consolidated holding**
 22 **company in the proportion that the assets of the merging or con-**
 23 **solidating savings bank bear to the aggregate assets of the merged**
 24 **or consolidated savings bank.]** *The requirement of subsection g.*
 25 *of section 14 of P. L. 1982, c. 9 (C. 17:9A-8.14g) that a liquidation*
 26 *account be established shall not apply.**

1 **[32.]** **27.** (New section) In the event that the board of
 2 managers elects to follow the procedures provided in subsection b.
 3 of section **[11]** **7** of this act, the managers shall, with the
 3A approval of the commissioner:

4 a. Adopt an amended certificate of incorporation which changes
5 the name of the organizing mutual savings bank and conforms its
6 organization, governance and powers to those prescribed for a
7 mutual savings bank holding company by section **[12]** *8*
8 and sections **[14]** *10* through **[19]** *15* of this act.

9 b. The amended certificate of incorporation adopted pursuant
10 to subsection a. of this section shall state:

11 (1) The amount of capital deposits and surplus which are to be
12 retained by the organizing mutual savings bank holding company;

13 (2) The amount of assets and liabilities of the organizing mutual
14 savings bank that are to be transferred to the subsidiary capital
15 stock savings bank; and

16 (3) A means of **[equalizing or adjusting the]** *retaining any*
17 interests of the respective depositors of the organizing mutual sav-
18 ings bank in the **[surplus and other]** assets *of the organizing*
19 *mutual savings bank, according to a fair valuation, including*
20 *assets* which are proposed to be retained by the organizing
21 mutual savings bank *holding company*.

1 **[33.** (New section) As used in sections 34 through 36 of this act:

2 a. "Capital stock savings bank" means any savings bank char-
3 tered pursuant to the provisions of P. L. 1982, c. 9 (C. 17:9A-8.1
4 et seq.).

5 b. "Commissioner" means the Commissioner of Banking.

6 c. "Depository institution" means a State or federally chartered
7 bank, savings bank, or savings and loan association which has its
8 principal office in New Jersey.

9 d. "Person" means an individual, bank corporation, savings
10 bank, savings and loan association, partnership, trust, association,
11 joint venture, pool, syndicate, sole proprietorship, unincorporated
12 organization, or any form of entity.**]**

1 **[34.** (New section) Any depository institution may make applica-
2 tion to the commissioner for approval to convert to another type
3 of depository institution if the board of the institution, by a vote
4 of 2/3 of its members, adopts a resolution to that effect.

5 The application shall be made on a form prescribed by the com-
6 missioner, and shall contain at least the following information:

7 a. A certified copy of the resolution of the board authorizing the
8 conversion;

9 b. The type of depository institution which is to result from
10 the conversion, and the powers to be exercised by the converted
11 institution;

12 c. A copy of the plan of conversion adopted by the board pur-
13 suant to the provisions of this act; and

14 d. Any other information required by the commissioner.】*

1 *【35. (New section) a. If a mutual savings and loan association is
2 to undertake a conversion pursuant to this act, the conversion
3 shall be effected by means of the procedures set forth in section
4 32 of P. L. 1974, c. 137 (C. 17:12B-261). If a stock savings and
5 loan association is to undertake a conversion pursuant to this sec-
6 tion, the conversion shall be submitted to the stockholders of the
7 association for their approval in the manner prescribed for amend-
8 ing a certificate of incorporation pursuant to section 21 of P. L.
9 1974, c. 137 (C. 17:12B-250).

10 b. If a mutual savings bank is to undertake a conversion pur-
11 suant to this section, the conversion shall be effected by means
12 of the procedures set forth in section 13 of P. L. 1982, c. 9 (C.
13 17:9A-8.13). If a capital stock savings bank is to undertake a
14 conversion pursuant to this section, the conversion shall be sub-
15 mitted to the stockholders of the capital stock savings bank for
16 their approval in the manner prescribed for in section 137 of P. L.
17 1948, c. 67 (C. 17:9A-137) and the stockholders shall have the
18 rights afforded by the provisions of sections 140 through 146 of
19 P. L. 1948, c. 67 (C. 17:9A-140 through C. 17:9A-146).

20 c. If a bank is to undertake a conversion pursuant to this sec-
21 tion, the conversion shall be effected by means of the procedures
22 set forth in section 137 of P. L. 1948, c. 67 (C. 17:9A-137), and the
23 stockholders shall have the rights afforded by the provisions of
24 sections 140 through 146 of P. L. 1948, c. 67 (C. 17:9A-140 through
25 C. 17:9A-146).】*

1 *【36. (New section) The conversion of a depository institution
2 pursuant to this act shall be effected in accordance with the plan of
3 conversion adopted by the board of the converting institution and
4 approved by the commissioner. The provisions of the plan shall
5 include, but not be limited to:

6 a. The effective date of the conversion;

7 b. That each depositor or savings member shall receive an equiva-
8 lent account in the converted depository institution equal in amount
9 to his account in the converting financial institution;

10 c. A provision for the sale or transfer of assets by the converting
11 depository institution to the converted depository institution;

12 d. If the mutual depository institution is to convert to a capital
13 stock depository institution;

14 (1) A record date for determining the respective interest of de-
15 positors or savings members in the converting mutual institution,
16 which date shall be established and published by the commissioner;

17 (2) That participation by officers, directors, and employees of the
18 converted capital stock depository institution and their associates

19 shall be in accordance with regulations promulgated by the com-
 20 missioner. For the purposes of this paragraph, the term "associate"
 21 of a person means parents, spouse, sisters, brothers, children, or
 22 anyone married to one of the foregoing persons; any corporation
 23 of which the person is an officer, director or owner of more than
 24 10% of the outstanding voting stock; any trust of which the person
 25 is a trustee or substantial beneficiary, and any partnership in which
 26 the person is a general or limited partner;

27 (3) That the interests of managers or directors, officers, em-
 28 ployees and associates, as that word is defined in paragraph (2)
 29 of this subsection, shall be disclosed in the application for con-
 30 version filed with the commissioner; and

31 (4) That each depositor or savings member as of the record
 32 date shall receive any rights with respect to the capital stock of
 33 the converted capital stock depository institution;

34 e. A date upon which the depositors or savings members of the
 35 converting mutual depository institution shall be notified by the
 36 converting mutual institution as to their rights and elections with
 37 respect to conversion; and

38 f. Any other provisions required by the commissioner by regu-
 39 lation.】*

1 *【37.】* **【*33.*】** **28.** Section 7 of P. L. 1948, c. 67 (C.
 2 17:9A-7) is amended to read as follows:

3 Nine or more persons, of full age, may incorporate a savings
 4 bank on the terms and provisions prescribed by this act. Such
 5 persons shall execute and acknowledge a certificate of incorpora-
 6 tion stating:

- 7 (1) the name by which the savings bank shall be known;
- 8 (2) the street, street number, if any, and municipality in which
 9 the principal office of the savings bank is to be located;
- 10 (3) the amount of the capital deposits with which the savings
 11 bank will commence business;
- 12 (4) the names and addresses of the incorporators;
- 13 (5) the number of managers, or that the number of managers
 14 shall be not less than a stated minimum or more than a stated
 15 maximum;
- 16 (6) the names of the persons who will serve as managers until
 17 their successors are elected and qualify;
- 18 (7) such fiduciary powers, if any, as the savings bank shall be
 19 authorized to exercise; 【but no savings bank hereafter organized
 20 shall be authorized to exercise any fiduciary powers except those
 21 specified in paragraphs (1), (5), (6) and (9) of section 28;】 and
 22 (8) such other provisions, not inconsistent with this act, as the

23 incorporators may choose to insert for the regulation of the busi-
24 ness and affairs of the savings bank.

1 *~~38.~~* **~~34.~~** **29.** Section 8 of P. L. 1948, c. 67 (C.
2 17:9A-8) is amended to read as follows:

3 8. Capital deposits; payment.

4 A. The capital deposits in every savings bank hereafter or-
5 ganized shall amount to not less than:

6 (1) \$100,000.00, if the population of the municipality wherein
7 the principal office of the savings bank is to be located does not
8 exceed 10,000;

9 (2) \$150,000.00, if such population exceeds 10,000 but does not
10 exceed 50,000;

11 (3) \$200,000.00, if such population exceeds 50,000 but does not
12 exceed 100,000;

13 (4) \$300,000.00, if such population exceeds 100,000 but does not
14 exceed 200,000;

15 (5) \$500,000.00, if such population exceeds 200,000; provided,
16 that if the certificate of incorporation states that the savings bank
17 shall be authorized to exercise any of the powers specified in
18 *~~paragraphs (1), (5), (6) and (9) of~~* section 28, its capital
19 deposits shall not be less than \$500,000.00.

20 B. The savings bank shall be liable to the depositors or their
21 legal representatives or assigns for the amount of the capital de-
22 posits respectively paid in by them, which shall be repaid to them
23 subject to such regulations as are applicable to other deposits and
24 which shall be entitled to interest and dividends at the same rate
25 and under the same regulations as are applicable to other deposits;
26 provided, that, until such time as the surplus of the savings bank
27 shall amount to not less than the original capital deposits, or 5%
28 of other regular deposits, whichever is greater, no part of the
29 capital deposits, other than interest or dividends thereon, may be
30 withdrawn, and until such time, the capital deposits shall be sub-
31 ordinate to all other deposits and liabilities of the savings bank.
32 When the surplus shall equal the amount in this subsection specified,
33 the capital deposits may be withdrawn or transferred to regular
34 deposits accounts in such amounts from time to time as shall not
35 reduce the surplus below the amount so specified.

1 *~~39.~~* **~~35.~~** **30.** Section 28 of P. L. 1948, c. 67 (C.
2 17:9A-28) is amended to read as follows:

3 28. Agency and fiduciary powers. A bank which is a qualified
4 bank shall have the following agency and fiduciary powers in addi-
5 tion to the powers specified in sections 24 and 25, whether or not
6 such agency and fiduciary powers are specifically set forth in its

7 certificate of incorporation, and a savings bank which is a qualified
8 bank shall have [such of] the following agency and fiduciary
9 powers, in addition to the powers specified in sections 24 and 26[,
10 as are not inconsistent with the law authorizing it to exercise the
10A powers of a fiduciary]*, *whether or not such agency and fiduciary*
10B *powers are specifically set forth in its certificate of incorporation**:

11 (1) to act as custodian or escrow agent of personal property for
12 any person or corporation;

13 (2) as agent, to receive, hold, manage and dispose of by sale or
14 otherwise personal and real property; to act as agent of any person
15 or corporation for any other purpose not prohibited by law:

16 (3) to act as the transfer agent or registrar, or both, of any
17 state, county, municipality, board, commission, or other body politic,
18 or of any foreign or domestic corporation and, in such capacity
19 to transfer, register, and countersign stock certificates and bonds
20 or other evidences of indebtedness;

21 (4) to act as trustee of or with respect to any security or instru-
22 ments of indebtedness or of security issued by any state, county,
23 municipality, other body politic, or corporation, foreign or domes-
24 tic, and to accept any other public or corporate trust not incon-
25 sistent with the laws of this State;

26 (5) to be appointed and to act under the order of appointment
27 of any court of competent jurisdiction as guardian, custodian,
28 trustee or administrator, or by whatever other title it may thereby
29 be designated, of the person or estate, or both, of any person for
30 whom or for whose estate such an appointment may be made;

31 (6) to be appointed and to act as executor, trustee, or guardian
32 under any last will and testament, or as administrator with the will
33 annexed, or as substituted administrator with the will annexed, or
34 as administrator, or as substituted trustee or as substituted admin-
35 istrator of the estate of any deceased person;

36 (7) to be appointed and to act as assignee or trustee for the
37 benefit of creditors under any statute providing for such assign-
38 ment or otherwise;

39 (8) to be appointed and to act as receiver or trustee on appoint-
40 ment by any state or federal court of competent jurisdiction;

41 (9) to receive from any person and hold in trust and dispose of,
42 by sale or otherwise, personal and real property, upon such terms
43 as may be specified;

44 (10) to accept, administer, and execute all other trusts and to act
45 in all other fiduciary capacities not herein specifically enumerated,
46 not inconsistent with law;

47 (11) all fiduciary powers permitted to associations pursuant to
 48 subsection (19) of section 48 of the "Savings and Loan Act (1963),"
 49 P. L. 1963, c. 144 (C. 17:12B-48).

1 * [40. Section 175 of P. L. 1948, c. 67 (C. 17:9A-175) is amended
 2 to read as follows:

3 175. Federal, State, county and municipal securities.

4 A. A savings bank may invest in

5 (1) stocks, bonds, and notes or obligations of or guaranteed by
 6 the United States, or those for which the credit of the United States
 7 is pledged for the payment of the principal and interest or divi-
 8 dends thereof;

9 (2) bonds or obligations of or guaranteed by this State or here-
 10 tofore authorized by the laws of this State to be issued pursuant
 11 to any law of this State; by any commission appointed by the
 12 Supreme Court of New Jersey, as the said court was constituted
 13 prior to September 15, 1948;

14 (3) bonds, notes or obligations of or guaranteed by any other
 15 state of the United States which has not, within 10 years prior to
 16 the making of the investment, defaulted in the payment of any part
 17 of the principal interest of any debt evidenced by bonds, notes
 18 or obligations;

19 (4) bonds, notes or obligations of any county, municipality, pub-
 20 lic school district, union graded school district, regional board of
 21 education, water district, sewer district, or other municipal or
 22 political subdivision of this State, issued pursuant to a law of this
 23 State; provided, that, the issuer has not, within five years prior to
 24 the making of the investment, been in default for more than six
 25 months in the payment of any part of the principal or interest of
 26 any debt evidenced by its bonds, notes or obligations;

27 (5) bonds, notes or other obligations issued, guaranteed or as-
 28 sumed by any municipality, county, school district, water district,
 29 sewer district or other municipal or political subdivison of any
 30 other state of the United States; provided, (a) that any such mu-
 31 nicipality, county, school district, water district, sewer district or
 32 other municipal or political subdivison of any other state of the
 33 United States, or the total of its component parts, shall have a
 34 population as shown by the last preceding federal census of not
 35 less than 25,000; and (b) the issuer, guarantor or assumer of such
 36 bonds, notes or other obligations.

37 (i) shall have pledged its faith and credit for the payment
 38 of the principal and interest of such bonds, notes or other ob-
 39 ligations, and

40 (ii) shall have the power to levy taxes on the taxable real
41 property therein for the payment of both principal and interest
42 of such bonds, notes or other obligations without limitation
43 of rate or amount, and

44 (iii) shall not within 10 years prior to the making of the
45 investment have defrauded in payment of principal or interest
46 of any debt evidenced by its bonds, notes or other obligations
47 for more than 60 days.

48 (6) bonds, including consolidated bonds, or other obligations,
49 issued by federal land banks, and debentures, including consoli-
50 dated debentures, or other obligations, issued by federal inter-
51 mediate credit banks or banks for cooperatives organized under
52 the laws of the United States;

53 (7) bonds, debentures or other obligations issued by the Home
54 Owners' Loan Corporation, Federal Home Loan Banks or by any
55 other agency or administration succeeding to its functions or
56 powers, under the Act of Congress of June 13, 1933, known as the
57 "Home Owners' Loan Act of 1933," *48 Stat. 128 (12 U. S. C. 1461*
58 *et seq.*) as amended or supplemented from time to time;

59 (8) bonds, debentures or other obligations issued by any national
60 mortgage association under the Act of Congress of June 27, 1934,
61 known as the "National Housing Act," *48 Stat. 1246 (12 U. S. C.*
62 *1701 et seq.*) as amended or supplemented from time to time;

63 (9) bonds, debentures or other obligations issued by The United
64 States Postal Service under the Postal Reorganization Act, Public
65 Law 91-375, 84 Stat. 719, (*39 U. S. C. 101 et al.*) as amended or
66 supplemented from time to time;

67 (10) bonds issued, guaranteed or assumed by any governmental
68 unit, which, if issued, guaranteed or assumed by a private company,
69 would be legal for investment under any of the provisions of this
70 article; and

71 (11) other investments presently or from time to time hereafter
72 authorized by law.

73 B. No savings bank shall make an investment pursuant to any
74 one of paragraphs (6), (7), (8) or (9) of subsection A. of this
75 section at any time when the total of all the investments of the
76 nature authorized by such paragraph exceeds, or if the making of
77 such an investment would cause such total to exceed, ~~2%~~ 20% of
78 its deposits; provided, however, investments under paragraph (6)
79 hereof may be in the amount of ~~2%~~ 20% of each of the agencies
80 referred to therein when the maturities of any such obligations are
81 within one year. No savings bank shall make an investment pur-
82 suant to paragraph (10) of subsection A. of this section in the bonds

83 of any one such governmental unit at any time when the total of
 84 all its investments in such bonds of such unit exceeds, or if the
 85 making of such investment would cause such total to exceed, **[2%]**
 86 *20%* of its deposits. The acquisition of any such investment as a
 87 result of a refunding or other refinancing or an exchange of any
 88 investment authorized by such paragraphs shall not be considered
 89 the making of an investment for the purposes of this subsection.

90 C. A savings bank may make short term investments **[limited to]**
 91 *not to exceed* a **[one-year]** *five-year* term in

92 (1) certificates of deposit in any bank **[whose stock qualifies as**
 93 **legal investment for savings banks]** *or term funds in any bank in*
 94 *the United States or in any state or federally chartered savings*
 95 *bank;*

96 (2) in United States government securities and bonds or obli-
 97 gations of United States governmental agencies otherwise legal
 98 investments hereunder, subject to repurchase agreements.

1 41. Section 178 of P. L. 1948, c. 67 (C. 17:9A-178) is amended to
 2 read as follows:

3 178. Public utility bonds and debentures.

4 A. As used in this section.

5 (1) "bonds of a public utility company" and "debentures or other
 6 bonds of a public utility company" shall mean bonds or debentures,
 7 as the case may be, issued, guaranteed, assumed, or otherwise
 8 agreed to be paid by a public utility company;

9 (2) "public utility company" shall include constituent and pre-
 10 decessor companies, and shall mean:

11 (a) a corporation at least eighty-five per centum (85%) of whose
 12 gross operating revenues are derived within the United States from
 13 the sale or furnishing of one or more of the following:

14 (1) artificial gas,

15 (2) natural gas to consumers over systems owned or leased
 16 by it,

17 (3) a mixture of artificial and natural gas to consumers over
 18 systems owned or leased by it,

19 (4) electricity,

20 (5) water, or

21 (6) telephone, telegraph or other communication services,
 22 or any combination thereof, and

23 (b) except for the purposes of subsection B. of this section, a
 24 corporation at least a majority of whose gross operating revenues
 25 are derived within the United States from furnishing telephone,
 26 telegraph or other communication services, or any combination
 27 thereof;

28 (3) "net operating revenues available for fixed charges" shall
29 mean gross operating revenues less all operating expenses, but
30 before deduction for (a) renewals and depreciation and (b) State
31 and federal income and profit taxes;

32 (4) "fixed charges" shall mean charges for (a) rentals, (b)
33 interest on all outstanding mortgage debt, and (c) regularly recur-
34 ring charges for amortization of discount and expense allocable to
35 mortgage debt, but shall exclude intercompany items;

36 (5) "fixed assets" shall mean real property, interests in real
37 property, plants, equipment, transmission or distribution systems,
38 and other assets commonly accepted as fixed assets, and shall in-
39 clude fixed assets leased to a public utility company and operated
40 by it under a lease expiring by its terms, in not less than fifty years
41 from the date an investment is made pursuant to this section;

42 (6) "book value of fixed assets" shall mean the value of such
43 assets as shown on the books of the public utility company, less
44 reserves for depreciation and renewals.

45 B. A savings bank may invest in

46 (1) bonds of a public utility company (a) whose gross operating
47 revenues, for the five fiscal years next preceding the investment for
48 which the necessary statistical data is available or for five con-
49 secutive twelve-month periods ending within six months of the time
50 the investment is made, have averaged at least two million five
51 hundred thousand dollars (\$2,500,000.00) for each such year or
52 period, and (b) whose average net operating revenues available for
53 fixed charges for the last three of such years or periods have
54 equaled not less than two and one-half times the average annual
55 requirement for fixed charges for the same years or periods;

56 (2) bonds of a public utility company (a) which derives at least
57 ninety-five per centum (95%) of its gross operating revenues from
58 the sale of water, and (b) whose gross operating revenues, for the
59 five fiscal years next preceding the investment for which the
60 necessary statistical data is available or for five consecutive twelve-
61 month periods ending within six months of the time the investment
62 is made, have averaged at least five hundred thousand dollars
63 (\$500,000.00) for each such year or period, and (c) whose average
64 net operating revenues available for fixed charges for the last
65 three of such years or periods have equaled not less than one and
66 three-quarters times the average annual requirement for fixed
67 charges during the same years or periods.

68 C. Bonds invested in pursuant to subsection B. of this section
69 shall be secured by a mortgage on fixed assets which is (1) a first
70 mortgage or (2) a refunding mortgage under which bonds may be

71 issued for the retirement or refunding of all debts secured by mort-
72 gages on all or any part of such fixed assets prior to the lien of
73 such refunding mortgage, or (3) a mortgage prior in lien to such a
74 refunding mortgage, or (4) is secured by the pledge of mortgage
75 bonds constituting not less than ninety-five per centum (95%) of all
76 the outstanding mortgage debt secured by all or part of the fixed
77 assets which are subject to the mortgage securing such pledged
78 bonds. The aggregate principal amount of all outstanding bonds
79 secured (1) by the mortgage securing the bonds so invested in,
80 directly or by pledge of bonds, and by all other mortgages equal
81 or prior thereto in lien, to which all or part of such fixed assets are
82 subject, or (2) by any such refunding mortgage inferior in lien to
83 the mortgage securing the bonds so invested in, directly or by pledge
84 of mortgage bonds, and by all other mortgages equal or prior in lien
85 to such refunding mortgage to which all or any part of such fixed
86 assets are subject, shall not, at the time of the investment exceed
87 (1) sixty-six and two-thirds per centum ($66\frac{2}{3}\%$) of the book value
88 of such fixed assets, in the case of bonds invested in pursuant to
89 paragraph (1) of subsection B. of this section, or (2) seventy per
90 centum (70%) of the book value of such fixed assets, in the case of
91 bonds invested in pursuant to paragraph (2) of subsection B. of
92 this section.

93 D. A mortgage securing bonds shall satisfy the requirements of
94 this section notwithstanding that it is

95 (1) subject to the lien of prior mortgages securing bonds which
96 have been called for redemption or which will otherwise mature
97 within six months of the time of the investment, and for the pay-
98 ment of which funds have been set aside in trust; and such bonds
99 shall not be deemed to be outstanding for the purpose of computing
100 the sixty-six and two-thirds per centum ($66\frac{2}{3}\%$) and the seventy
101 per centum (70%) limitations prescribed by subsection C. of this
102 section;

103 (2) subject to the lien of current taxes or assessments not past
104 due;

105 (3) subject to the lien of past due taxes or assessments which are
106 bona fide contested;

107 (4) subject to construction or other liens arising out of operations
108 common to public utility companies of similar character and size.

109 E. A savings bank may invest debentures or other bonds of a
110 public utility company notwithstanding that such bonds or deben-
111 tures are unsecured, or, if secured, that the mortgages securing
112 them do not satisfy the requirements of subsection C. of this sec-
113 tion; provided, (1) that the gross operating revenues within the

114 United States of the public utility company, for the five fiscal years
115 next preceding the investment for which the necessary statistical
116 data is available, or for five consecutive twelve-month periods end-
117 ing within six months of the time the investment is made, have
118 averaged not less than twenty million dollars (\$20,000,000.00) for
119 each such year or period; and (2) that the average net operating
120 revenues of the public utility company available for fixed charges,
121 including charges on all outstanding funded debt, whether secured
122 or unsecured, for the last three of such years or periods have
123 equaled not less than four times the average annual requirement
124 for fixed charges for the same years or periods.

125 F. No savings bank shall make an investment pursuant to this
126 section at any time when the total of all such investments exceeds,
127 or if the making of such an investment would cause such total to
128 exceed, forty per centum (40%) of the deposits.

129 G. No savings bank shall make an investment pursuant to this
130 section in any obligation for the payment of which any one public
131 utility company is primarily liable, at any time when the total of all
132 of its investments in such obligations of such company exceeds, or
133 if the making of such an investment would cause such total to
134 exceed, ~~two per per centum (2%)~~ 20% of its deposits. The
135 acquisition of any such obligation as a result of a refunding or
136 other refinancing or exchange of such obligations theretofore in-
137 vested in shall not be considered the making of an investment for
138 the purposes of this subsection.

139 H. A savings bank may invest in debentures or other bonds of a
140 public utility company within the meaning of subparagraph (b) of
141 paragraph (2) of subsection A. of this section, notwithstanding that
142 such debentures or other bonds do not satisfy the requirements of
143 subsection E. of this section, or, if secured, that the mortgages se-
144 curing them do not satisfy the requirements of subsection C. of this
145 section: provided, (1) that the gross operating revenues within the
146 United States of the public utility company, for the five fiscal years
147 next preceding the investment for which the necessary statistical
148 data is available, or for five consecutive twelve-month periods end-
149 ing within six months of the time the investment is made, have
150 averaged not less than twenty million dollars (\$20,000,000.00) for
151 each such year or period; and (2) that the average net income of
152 the public utility company for the last three of such years or periods,
153 after adding to the net income for each of such three years or
154 periods (a) charges for renewals and depreciation, (b) State and
155 federal income and profits taxes, and (c) interest charges and
156 regularly recurring charges for amortization of debt discount and

157 expense, deducted in computing the net income for such year or
158 period, has equaled not less than four times the average annual
159 requirement for interest charges and regularly recurring charges
160 for amortization of debt discount and expense for the same years
161 or periods.]*

1 * [42. Section 180 of P. L. 1948, c. 67 (C. 17:9A-180) is amended to
2 read as follows:

3 180. Industrial obligations.

4 A. A savings bank may invest in bonds, debentures, notes, or
5 other obligations which mature within thirty years from the time
6 of the investment, and which are issued by an industrial company
7 incorporated within and transacting business within the United
8 States,

9 (1) whose annual consolidated net sales or consolidated gross in-
10 come has averaged not less than ten million dollars, (\$10,000,000.00)
11 for the five fiscal years next preceding the investment for which the
12 necessary statistical data is available; and

13 (2) whose annual consolidated net income available for dividends
14 has averaged not less than one million dollars (\$1,000,000.00) for
15 the five fiscal years next preceding the investment for which the
16 necessary statistical data is available; and

17 (3) whose total consolidated debt, including current liabilities,
18 as shown on its latest published consolidated balance sheet, does not
19 exceed forty per centum (40%) of its gross assets less reserves as
20 shown on such balance sheet; and

21 (4) whose consolidated current assets, as shown on its latest pub-
22 lished consolidated balance sheet, are not less than two and one-half
23 times its consolidated current liabilities as shown on such balance
24 sheet. In computing current assets and current liabilities for the
25 purposes of this paragraph, there shall be eliminated from current
26 assets, cash and United States Government notes, bonds, treasury
27 bills and certificates of indebtedness in an amount not in excess of
28 federal income and excess profits taxes included in current liabili-
29 ties, and there shall be eliminated from current liabilities such
30 federal income and excess profits taxes in an amount not in excess
31 of the amount eliminated from current assets; and

32 (5) whose consolidated net income for the five fiscal years next
33 preceding the investment for which the necessary statistical data is
34 available after deducting reserves, regularly recurring charges
35 for amortization of discount and expenses allocable to funded debt,
36 and after deducting all other charges except interest, income and
37 profits taxes, has averaged not less than four times the average an-
38 nual consolidated interest charges during such period; and

39 (6) whose consolidated net income, computed as prescribed in the
 40 next preceding paragraph, has not, in two or more of the five fiscal
 41 years next preceding the investment for which the necessary sta-
 42 tistical data is available, been less than twice the annual consoli-
 43 dated interest charges during the same years; and

44 (7) whose consolidated net income, computed as prescribed in
 45 paragraph (5) of this subsection, for the last fiscal year next pre-
 46 ceding the investment for which the necessary statistical data is
 47 available, was (a) not less than three times the consolidated in-
 48 terest charges for such year, and (b) not less than three times the
 49 annual consolidated charges on the funded debt outstanding at the
 50 time of the investment. For the purposes of this section, "debt"
 51 shall exclude all debt which has been called for redemption or
 52 which otherwise matures within six months from the time of the
 53 investment, and for the payment of which funds have been set
 54 aside in trust.

55 B. "Industrial company" shall for the purpose of this section,
 56 include predecessor and constituent corporations, and shall mean
 57 corporations engaged in manufacturing, mining, merchandising,
 57A commercial financing, and other corporations commonly accepted
 58 as industrial companies.

59 C. No savings bank shall make an investment pursuant to this
 60 section at any time when the total of all such investments exceeds,
 61 or if the making of such an investment would cause such total to
 62 exceed, twenty-five per centum (25%) of its deposits.

63 D. No savings bank shall make an investment pursuant to this
 64 section in any obligation for the payment of which any one indus-
 65 trial company is primarily liable, at any time when the total of
 66 all its investments in such obligations of such company exceeds,
 67 or if the making of such an investment would cause such total to
 68 exceed, two per centum (2%) 20% of its deposits. The acquisition
 69 of any such obligation as a result of a refunding or other refinanc-
 70 ing or exchange of such obligations theretofore invested in shall
 71 not be considered the making of an investment for the purposes of
 72 this subsection.]*

1 ***[43.]** * ****[*36.*]** * ****31.**** Section 181 of P. L. 1948, c. 67 (C.
 2 17:9A-181) is amended to read as follows:

3 181. Mortgage loans.

4 A. 1. A savings bank may make or invest in mortgage loans in
 5 the manner and subject to the limitations prescribed by this sec-
 6 tion. For the purposes of this section, "mortgage loan" shall
 7 include every indebtedness secured by mortgage on real property,
 8 or on a lease of the fee of real property (in any case in which

9 such lease is lawful security for such mortgage loan), except as
10 otherwise provided by subsection Q. of this section, and a savings
11 bank shall be deemed to have made a mortgage loan when

12 (a) It lends or participates in lending money to a borrower
13 upon the security of real property; or

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

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

21 2. For all purposes of compliance with the applicable provi-
22 sions and restrictions of subsections D. and G. of this section
23 as to the percentage of the mortgage loan to the appraised value
24 of the mortgaged property, and the term of and rate of amortiza-
25 tion of such loan, the date of the acquisition by a savings bank of
26 a mortgage loan or a share or part thereof or interest therein
27 shall, as respects such savings bank, be deemed to be the date as
28 of which the mortgage loan was made and the unpaid amount of
29 the principal then due shall be deemed to be the amount of such
30 mortgage loan.

31 B. No savings bank shall make a mortgage loan at any time
32 when the total cost of acquisition by the savings bank of all real
33 property owned by it, other than real property held for the pur-
34 poses specified in subparagraph (a) of paragraph (5) of section 24,
35 and the total of all principal balances owing to the savings bank
36 on mortgage loans, less all write-offs and reserves with respect
37 to such real property and mortgage loans, together exceeds, or
38 by the making of such loan will exceed, 80% of its deposits. For
39 the purposes of this subsection, principal balances owing on
40 mortgage loans made pursuant to subsection Q. (1) of this section
41 shall, only to the extent of the unguaranteed portion of such bal-
42 ances, and loans made pursuant to subsection Q. (2) of this
43 section shall, only to the extent of 50% of such balances, be in-
44 cluded in the total of all principal balances owing to the savings
45 bank on mortgage loans; and for the purposes of this subsection,
46 principal balances owing on mortgage loans made by the use of
47 funds received by the bank pursuant to the provisions of the
48 [“New Jersey Mortgage Finance Agency Law” (P. L. 1970,
49 c. 38, C. 17:1B-4 et seq.)] “*New Jersey Housing and Mortgage*
50 *Finance Agency Law of 1983*,” P. L. 1983, c. 530 (C. 55:14K-1

51 *et seq.*), shall, only to the extent of 50% of such balances, be in-
 52 cluded in the total of all principal balances, owing to the savings
 53 bank on mortgage loans.

54 C. ******【Every mortgage loan shall be evidenced by a note or bond,
 55 and shall be secured by a mortgage on the fee of real property
 56 located within this State, or, if outside this State, upon the fee
 57 of real property located within 50 miles of the border of this
 58 State; or located as permitted for associations pursuant to sec-
 59 tion 146 of the “Savings and Loan Act (1963),” P. L. 1963, c. 144
 60 (C. 17:12B-146).】****** 【Every mortgage shall be certified to be a first
 61 lien by an attorney at law of the State in which the real property
 62 is located, or certified or guaranteed to be a first lien by a cor-
 63 poration authorized to guarantee titles to land in such State. For
 64 the purposes of this section, a mortgage shall be deemed to be
 65 a first lien, notwithstanding the existence of a prior mortgage or
 66 mortgages held by the savings bank, or a lien for current taxes
 67 or assessments not due or payable at the time the loan is made,
 68 and notwithstanding the existence of leases, building restrictions,
 69 easements, encroachments, or covenants which, in the opinion
 70 of an officer of the savings bank designated for that purpose by
 71 the board of managers, do not materially lessen the value of the
 72 real property to be mortgaged.】 **In the event that the real property*
 72A *offered as security for a mortgage loan is subject to one or more*
 72B *prior mortgage liens, the maximum amount of a mortgage loan*
 72C *which may be made pursuant to this section shall be reduced by the*
 72D *total amount of the mortgage loan or loans outstanding which are*
 72E *secured by the prior mortgage lien or liens, except that, if any*
 72F *prior mortgage lien or liens secures a line, or lines, of credit, the*
 72G *maximum amount of mortgage loan which may be made pursuant*
 72H *to this section shall be reduced by the total amount that may be*
 72I *borrowed under the line, or lines, of credit.**

73 D. When the real property offered as security for a mortgage
 74 loan consist of a lot of land, or, in the case of condominiums, an
 75 interest in a lot of land, upon which there is one or more one-, two-,
 76 three-, or four-family dwellings including appropriate garages or
 77 other outbuildings, if any, or upon which such dwelling or dwell-
 78 ings, garages or outbuildings are in the course of construction or
 79 are to be constructed, the amount of the mortgage loan shall not
 80 exceed 90% of the appraised value of the real property; provided,
 81 however, where mortgage guaranty insurance is issued incident to
 82 such loan pursuant to the provisions of the Mortgage Guaranty
 83 Insurance Act, P. L. 1968, c. 248 (C. 17:46A-1 *et seq.*), the amount

84 of the mortgage loan shall not exceed 95% of the appraised value
85 of the real property.

86 E. (Deleted by amendment.)

86A F. (Deleted by amendment.)

87 G. When the real property offered as security for a mortgage
88 loan consist of a lot of land upon which there is a building or
89 buildings other than dwellings of the nature described in subsec-
90 tion D. of this section, or upon which such other buildings are in
91 the course of construction, or are to be constructed, or when such
92 land is paved for parking lot purposes, the amount of the mort-
93 gage loan shall not exceed 80% of appraised value of such real
94 property. The instrument evidencing a mortgage loan made pur-
95 suant to this subsection shall require that the loan be repaid in
96 full in not more than 30 years and one month from the date it is
97 made; and (a) if the amount of such loan, when made, exceeds
98 50%, of the appraised value of the real property, that payment
99 shall be made in reduction thereof at least semiannually, at an
100 annual rate equal to at least 1% of the original amount of such
101 loan; or (b) if the amount of such loan, when made, does not
102 exceed 50% of the appraised value of the real property, that
103 payments shall be made in reduction thereof at least semiannually,
104 at an annual rate equal to at least $\frac{1}{2}$ % of the original amount of
105 such loan; provided, that, in lieu of such principal payments, the
106 instrument evidencing any mortgage loan may require equal
107 monthly payments each applicable to principal and interest in an
108 amount sufficient to pay current interest and to repay the amount
109 of the loan in not more than 30 years and one month from its date.
110 When, however, the amount of such loan does not, when made,
111 exceed 50% of the appraised value of such real property, and the
112 instrument evidencing such loan requires that it be paid in full
113 in not more than five years and one month from the date it is made,
114 the instrument need not require that any payment be made in re-
115 duction of such loan prior to its maturity date. Notwithstanding
116 the limitations prescribed by subsection D. and hereinabove in this
117 section, a savings bank may make a mortgage loan secured by a
118 lot of land or two or more lots of land, contiguous or not, upon
119 each of which there is a building or buildings, or upon each of
120 which a building or buildings are in the course of construction or
121 are to be constructed. The limitations of this section governing the
122 term of the loan, rate of amortization, and the percentage of the
123 mortgage loan to the appraised value of each type of building,
124 including land, shall apply. No loans shall be made under sub-

125 section D. or G. hereof to any one person or on any one property
126 if the loans shall exceed 15% of the surplus, undivided profits, and
127 reserves of the savings bank, or \$50,000.00, whichever is greater.

128 H. When the real property offered as security for a mortgage
129 loan is of the nature described in subsection D. of this section,
130 and the amount of the loan does not exceed 66 $\frac{2}{3}$ % of the appraised
131 value of such real property, the instrument evidencing such loan
132 shall be sufficient if it conforms to the requirements of subsection
133 G. of this section.

134 I. A mortgage loan may be made for the purpose of enabling a
135 borrower to construct a building or buildings upon real property
136 owned by him, and, in such a case, the appraised value of the real
137 property shall include the value of the building or buildings to be
138 constructed, but at no time shall a greater sum be advanced on
139 account of such loan than, in the opinion of (1) the appraisers
140 hereinafter provided for, or (2) one of such appraisers and an
141 officer of the savings bank designated for that purpose by the
142 board of managers, is warranted by the state of completion of the
143 buildings in process of construction. For the purposes of com-
144 pliance with the applicable requirements of subsection G. of this
145 section as to the term of and the rate of amortization of a loan
146 made pursuant to this section, such loan shall be deemed to have
147 been made when the final advance shall be made to the borrower
148 on such loan, or 60 months from the date of the mortgage securing
149 such loan, whichever is earlier.

150 J. [When the real property offered as security for a mortgage
151 loan consist of unimproved land, and the proceeds of such loan are
152 not to be used to construct a building on such land, the amount of
153 such loan shall not exceed 50% of the appraised value of such
154 real property.] ***When the real property offered as security for a*
155 *mortgage loan consists of unimproved land, and the proceeds of*
156 *the mortgage loan are not to be used to construct a building on the*
157 *land, the amount of the loan shall not exceed 50% of the appraised*
158 *value of the real property.*** When the real property offered as
159 security for a mortgage loan consists of unimproved land, [and the
160 proceeds of such loan are to be used for improvements to the
161 land,] ***and the proceeds of the loan are to be used for improve-*
162 *ments to the land,*** the amount of such loan shall not exceed 75%
163 of the appraised value of such real property. The instrument
164 evidencing a loan made pursuant to this subsection shall require
165 that such loan be paid in full in not more than 10 years and one
165A month from the date it is made. No loan made pursuant to this
165B subsection shall exceed \$10,000.00, or 3/10 of 1% of the deposits

165c of the savings bank, whichever is greater; nor shall any loan be
165d made at any time when the total of all such loans exceeds, or if
165e the making of such loan would cause such total to exceed 2% of
165f the deposits of the savings bank.

166 K. No mortgage loan shall be made except upon a written certifi-
167 cation signed by at least two persons, each of whom shall be
168 either a manager of the bank or an appraiser appointed by its
169 board of managers. In the case of a mortgage loan secured by a
170 mortgage upon real property, such certification shall state the
171 opinion of such persons as to the value of the land and the improve-
172 ments thereon or to be erected thereon and the character of such
173 improvements. In the case of a mortgage loan secured by a mort-
174 gage upon a lease of the fee of real property, such certification
175 shall state the opinion of such person as to the value of the lease-
176 hold interest to be subject to the mortgage, including the leasehold
177 interest in the improvements erected or to be erected upon the
178 leased property and the character of such improvements. Such
179 certification shall be filed with the records of the bank, and shall
180 be preserved until the savings bank has no interest, as mortgagee
181 or otherwise, in the real property.

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

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

190 (1) The leased property is located within this State or, if out-
191 side this State, the leased property is located within 50 miles of
192 the border of this State;

193 (2) The leased property shall consist of improved real property,
194 including farmlands, or unimproved real property if the proceeds
195 of such loan shall be used for the purpose of erecting improve-
196 ments thereon;

197 (3) The mortgage securing such loan shall constitute a first lien
198 on a lease of the fee of real property, which fee is not subject to
199 any prior lien; the fee shall be deemed not subject to any prior
200 lien notwithstanding the existence of liens of taxes which are not
201 delinquent, building restrictions or other restrictive covenants or
202 conditions, joint driveways, sewer rights, rights in walls, rights-of-
203 way or other easements, or encroachments, which the persons sign-
204 ing the certificate provided for in subsection K. of this section

205 report in their opinion do not materially affect the security for the
206 mortgage loan. Every mortgage shall be certified to be such a
207 first lien by an attorney-at-law of the state in which the real prop-
208 erty is located, or certified or guaranteed to be such a first lien by
209 a corporation authorized to guarantee titles to land in such state;

210 (4) Such loan shall not exceed 66 $\frac{2}{3}$ % of the appraised value of
211 the leasehold interest subject to the mortgage, including the lease-
212 hold interest in the improvements erected upon the mortgaged
213 property, or to be erected thereon wholly or partly with the pro-
214 ceeds of the mortgage loan; and

215 (5) The instrument evidencing the loan shall require that pay-
216 ment be made on account of the principal amount of such loan at
217 an annual rate sufficient to repay such loan not later than one year
218 prior to the expiration of the lease;

219 (6) Notwithstanding the foregoing, the terms of the loan are
220 authorized for an association pursuant to subsections C. and D. of
221 section 155 of the "Savings and Loan Act (1963)," P. L. 1963,
222 c. 144 (C. 17:12B-155).

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

228 O. Notwithstanding the limitations prescribed by the preceding
229 subsections or by subsection P. of this section, a savings bank may

230 (1) For the purposes of preventing or mitigating loss, or of
231 preserving the lien of its mortgage, or of conserving the value of
232 the real property affected by its mortgage, (a) extend the time for
233 the payment of principal or interest, (b) modify or waive any of
234 the terms or conditions of the instrument evidencing a mortgage
235 loan, (c) settle or compromise all or part of the amount due or to
236 grow due on a mortgage loan, (d) sell or assign the mortgage loan,
237 or a share or part thereof or interest therein, for such considera-
238 tion as it shall deem proper, and (e) advance funds for the payment
239 of any tax, lien, charge or claim whatsoever; and

240 (2) Make a loan in addition to an existing mortgage loan or
241 loans held by it, upon the security of the same real property and
242 secured by the existing mortgage or mortgages, in an amount not
243 to exceed the difference between the balance due on the existing
244 mortgage or mortgages and the original amount thereof; provided,
245 however, that no such additional loan shall be made which shall
246 increase the total amount due upon such mortgages over the

247 amount which could be loaned upon the security of such real prop-
248 erty. Such additional loan shall be repaid in equal monthly
249 installments, beginning within one year from the date of such loan,
250 with the payments adjusted so that the additional loan shall be
251 repaid in full either before or at the maturity of the existing mort-
252 gage. If the unexpired term of such mortgage or mortgages shall
253 have been reduced to 15 years or less, such term may be extended
254 for an additional period of not more than 15 years. Adjustment of
255 payments and extension of mortgage terms pursuant to this section
256 shall comply with the provisions of subsection G. or H. of this
257 section. If so provided in the original mortgage or a supplement
258 or amendment thereto, persons who acquire any rights in or liens
259 upon the mortgaged real property subsequent to the recording of
260 the original mortgage or such supplement or amendment, as the
261 case may be, shall hold such rights and liens subject to the prior
262 lien of the original mortgage and such supplement or amendment,
263 if any, as security for such additional loan; and in such case, no
264 title certificate or insurance under subsection C. of this section
265 shall be required with respect to such additional loan.

266 P. Except as otherwise provided by this section, no savings bank
267 shall make a mortgage loan if the making of such loan would cause
268 the total of all unpaid balances of such loans held by the savings
269 bank upon the security of the same real property or leasehold, to
270 exceed the limitations imposed by this section upon the amount of a
271 mortgage loan which may be made upon the security of such real
272 property or such leasehold.

273 Q. A savings bank may invest in

274 (1) (a) Veterans' loans, wherever located, made pursuant to
275 Title III of the Act of Congress of June 22, 1944, known as the
276 "Servicemen's Readjustment Act of 1944," as amended, supple-
277 mented, revised, or recodified from time to time, which the Admin-
278 istrator of Veteran's Affairs or other officer or agency which
279 succeeds to his powers and functions under said act has insured or
280 guaranteed or has made a commitment to insure or guarantee, to
281 the extent and in the manner provided in said act or the regulations
282 made thereunder; and

283 (b) Veterans' loans, wherever located, made and insured or
284 guaranteed in part as provided in paragraph (1) (a) of this sub-
285 section of this section, and, as to the balance thereof, insured or
286 guaranteed by an insurer or guarantor named or described in para-
287 graph (2) of this subsection of this section.

288 (c) Mortgages or deeds of trust or other securities made pur-
289 suant to paragraph (1) (a) of this subsection of this section shall

290 not be subject to the provisions and restrictions of this section,
291 except that they shall be included in determining whether total
292 mortgage investments are within the limitation prescribed by
293 subsection B. of this section, provided, however, that said mort-
294 gages or deeds of trust or other securities shall not be subject to
295 the provisions of any law of this State prescribing or limiting the
296 interest which may be taken upon such loans or investments.

297 (2) (a) Mortgages or deeds of trust or other securities of the
298 character of mortgages which are first liens on the fee of real
299 property or a lease of the fee of real property, wherever located,
300 which (i) the United States, or (ii) the Federal Housing Commis-
301 sioner under the Act of Congress of June 27, 1934, known as the
302 "National Housing Act," 48 Stat. 1246 (12 U. S. C. 1701 et seq.)
303 as amended, supplemented, revised or recodified from time to time,
304 or other officer or agency which succeeds to his powers and func-
305 tions, or (iii) the State of New Jersey or an officer or agency
306 thereof, or (iv) any other officer or agency of the United States or
307 of this State which the commissioner shall have approved for the
308 purposes of this section as an insurer or guarantor, has fully
309 insured or guaranteed or made a commitment to fully insure or
310 guarantee.

311 (b) Mortgages or deeds of trust or other securities made pur-
312 suant to paragraph (2) (a) of this subsection of this section shall
313 not be subject to the provisions and restrictions of this section,
314 except that they shall be included in determining whether total
315 mortgage investments are within the limitation prescribed by sub-
316 section B. of this section, provided, however, that said mortgages
317 or deeds of trust or other securities shall not be subject to the
318 provisions of any law of this State prescribing or limiting the
319 interest which may be taken upon such loans or investments.

320 R. The commissioner may, from time to time, make, alter and
321 rescind regulations:

322 (1) Authorizing savings banks to make mortgage loans or speci-
323 fied types or classes of mortgage loans (a) which exceed the
324 specified percentages of the appraised value of the mortgaged
325 property; (b) which mature later than the specified periods from
326 their date; (c) which require smaller annual payments on account
327 of the principal amounts thereof than those specified in this sec-
328 tion; (d) which provide for equal monthly payments each applica-
329 ble to principal and interest in amounts sufficient to pay current
330 interest on and to repay the amount of the loan in such number of
331 years more than 40, but not more than 45, as the regulation may

332 specify; or (e) which substantially conform to the terms and con-
 333 ditions of mortgage loans authorized to be made by associations
 334 pursuant to the "Savings and Loan Act (1963)," P. L. 1963, c. 144
 335 (C. 17:12B-1 et seq);

336 (2) Increasing the percentage of deposits of savings banks
 337 which savings banks may invest in mortgage loans;

338 (3) Increasing the percentage of principal balances owing on
 339 mortgage loans referred to in subsection Q. which shall not be
 340 included in the total of all principal balances owing on mortgage
 341 loans for the purpose of subsection B.; or

342 (4) Eliminating entirely the principal balances owing on such
 343 mortgage loans from such total of all principal balances.

344 S. Notwithstanding the provisions of this section, a savings bank
 345 may make a mortgage loan in excess of the ratio between ap-
 346 praised value and the amount of the loan as such ratio is estab-
 347 lished herein, provided that such excess is secured by other col-
 348 lateral having a value at all times at least equal to the amount
 349 of the principal balance in excess of the amount permitted by
 350 subsection G., H., J., or M., of this section or as established by
 351 regulation of the Commissioner of Banking.

1 ***[44.** Section 199 of P. L. 1948, c. 67 (C. 17:9A-199) is amended
 2 to read as follows:

3 199. What savings banks may merge.

4 Any two or more savings banks, may, with the approval of the
 5 commissioner, merge one or more of them into another of them,
 6 as provided herein.

7 *Any savings bank may merge into a federal savings bank with*
 8 *the approval of the commissioner.]**

1 ***[45.** Section 2 of P. L. 1951, c. 167 (C. 17:9A-180.2) is amended
 2 to read as follows:

3 2. No savings bank shall make an investment pursuant to this
 4 act at any time when the total of all such investments in obliga-
 5 tions of such corporation, including bonds issued, guaranteed,
 6 assumed or otherwise agreed to be paid by such corporation, ex-
 7 ceeds, or if the making of such investment would cause such total
 8 to exceed, **[five per centum (5%)]** 20% of such obligations of
 9 such corporation, or **[two per centum]** 10% of the assets of the
 10 savings bank, whichever amount is less.]*

1 ***[46.]*** ****[*37.*]**** **32.** Section 1 of P. L. 1953, c. 78 (C.
 2 17:9A-180.5) is amended to read as follows:

3 1. A savings bank may, in addition to other investments, pres-
 4 ently or from time to time hereafter authorized by law, invest in

5 (1) stocks, preferred or common, issued or guaranteed by a cor-
6 poration created or existing under the laws of the United States
7 or any state, district or territory thereof, provided

8 (a) that for a period of five fiscal years for which the necessary
9 statistical data are available next preceding the date of investment
10 by such savings bank such corporation as disclosed by its pub-
11 lished fiscal annual statements shall have had an average annual
12 net income plus its average annual fixed charges (as herein used,
13 fixed charges shall mean interest on funded or unfunded debt,
14 contingent interest charges, amortization of debt discount and
15 expense and rentals for leased property and, in the case of con-
16 solidated earnings statements of parent and subsidiary corpora-
17 tions (which must be used if available) shall include all such
18 fixed charges and the preferred dividend requirement, if any, of
19 such subsidiaries) at least equal to 1½ times the sum of its
20 average annual dividend requirement for preferred stock and its
21 average annual fixed charges for the same period; and

22 (b) during neither of the last two years of such period shall
23 the sum of its annual net income and its annual fixed charges have
24 been less than 1½ times the sum of its dividend requirement for
25 preferred stock and its fixed charges for the same period; and

26 (c) such corporation shall have no arrears of dividends on its
27 preferred stock; and

28 (d) as to the common stock of any corporation that

29 i. such common stock is registered on a national securities
30 exchange as provided in an Act of Congress of the United
31 States entitled "Securities Exchange Act of 1934," [ap-
32 proved June 6, 1934] 48 Stat. 881* [L]* (15 U. S. C. **§** 78a
33 et seq.), as amended or for which quotations are available
34 through the National Association of Securities Dealers Auto-
35 mated Quotation System (NASDAQ); and

36 ii. such corporation shall have paid a cash dividend on its
37 common stock in each year of the 10-year period next pre-
38 ceding the date of investment by such savings bank and the
39 aggregate net earnings available for dividends on the com-
40 mon stock of such corporation for the whole of such period
41 shall have been at least equal to the amount of such dividends
42 paid.

43 (e) in applying the earnings test under this act to any issuing,
44 assuming or guaranteeing corporation, where such corporation
45 shall have acquired its property or any substantial part thereof
46 within such five-year period immediately preceding the date of
47 investment by consolidation or merger, or by the purchase of all

48 or a substantial portion of the property of any other corporation
 49 or corporations, or shall have acquired the assets of any unin-
 50 corporated business enterprise by purchase or otherwise, net in-
 51 come, fixed charges and preferred dividends of the several prede-
 52 cessor or constituent corporations or enterprises shall be con-
 53 solidated and adjusted so as to ascertain whether or not the
 54 applicable requirements of this act have been complied with;

55 (2) stock or shares of a corporation which is an investment
 56 company as defined by, and which is registered under, an Act of
 57 Congress entitled "Investment Company Act of 1940," [approved
 58 August 22, 1940] *54 Stat. 847** [,] *(15 U. S. C. **§** 80a-1 et seq.)*,
 59 as amended; provided

60 (a) all the stock and shares of such investment company are
 61 or are to be owned by savings banks of this State; and

62 (b) such company may invest only in such investments as are
 63 eligible for savings banks of this State including investments made
 64 eligible for savings banks by this act; and

65 (c) the amount of stock of any corporation which may be held
 66 by such investment company shall not exceed at the time of in-
 67 vestment by such company, 5% of the number of shares of stock
 68 of such corporation then outstanding or 3% of the assets of such
 69 investment company, whichever amount is the lesser.

70 (3) common stock of a national banking association or trust
 71 company doing business anywhere within the United States which
 72 is a member of the Federal Reserve System and which, at the
 73 date of its last published statement preceding the date of invest-
 74 ment, had a combined total of capital stock, surplus, reserve for
 75 contingencies and undivided profits equal to at least \$40,000,000.00
 76 and also equal to at least 6% of its aggregate deposit liability
 77 and which, in each of the five fiscal years preceding the date of
 78 investment, paid dividends in cash of not less than 4% on its
 79 common stock without having reduced the aggregate par value
 80 thereof within such five-year period;

81 (4) common stock of an insurance company, authorized to trans-
 82 act business in New Jersey, which has combined capital stock,
 83 surplus and special surplus funds (based on consolidated state-
 84 ments of parent and subsidiary companies, if any) at least equal
 85 to \$20,000,000.00 and which has paid cash dividends on its common
 86 stock in each of its five fiscal years next preceding the date of
 87 investment.

1 * [47. Section 2 of P. L. 1953, c. 78 (C. 17:9A-180.6) is amended
 2 to read as follows:

3 2. No savings bank shall make an investment in the stock of
 4 any corporation pursuant to this act, except an investment under
 5 section 1 (2) hereof, which investments are exempt from the limi-
 6 tations imposed by this section, at any time when the total of
 7 all such investments in stocks of such corporation, issued or guar-
 8 anteed, exceeds or if the making of such investment would cause
 9 such investment to exceed **two per centum** 20% of the total
 10 outstanding shares of the guaranteed, or of the preferred, or of
 11 the common stock of such corporation **or three per centum of**
 12 the surplus (as hereinafter defined) of the savings bank, which-
 13 ever amount is less~~].~~*

1 *~~48.~~ Section 3 of P. L. 1955, c. 251 (C. 17:9A-175.4) is amended
 2 to read as follows:

3 3. No savings bank shall make an investment pursuant to this
 4 act at any time

5 (a) when the total of all of such investments exceeds, or if
 6 the making of such investment would cause such total to exceed
 7 ~~10%~~ 20% of its deposits; or

8 (b) when the total of all such investments in the revenue bonds
 9 of one unit exceeds, or if the making of such investment would
 10 cause the total investment in the revenue bonds of any one unit
 11 to exceed ~~1%~~ 5% of its deposits; or

12 (c) when the total of all such investments in revenue bonds of
 13 any one unit exceeds, or if the making of such investment would
 14 cause such total to exceed ~~5%~~ 10% of the total amount of all
 15 revenue bonds of that unit issued and outstanding~~].~~*

1 *~~49.~~* **~~38.~~** **33.** Section 7 of P. L. 1968, c. 415 (C.
 2 17:9A-26.1) is *~~amended~~ to read as follows:

3 7. ~~No savings bank incorporated in this State or under the~~
 4 laws of another State or jurisdiction may be directly or indirectly
 5 a capital depositor in another savings bank in this State~~].~~

6 No savings bank incorporated in this State or under the laws
 7 of another state or jurisdiction may be directly or indirectly the
 8 purchaser of capital debentures of another savings bank in this
 9 State which has been incorporated less than five years prior to
 10 such purchase~~].~~* *repealed*.*

1 *~~50.~~ Section 8 of P. L. 1979, c. 226 (C. 17:9A-24.9) is amended
 2 to read as follows:

3 8. Additional powers of banks and savings banks. In addition to
 4 the powers which banks and savings banks may otherwise exercise,
 5 every bank and savings bank, as defined in section 1 of ~~“The~~
 6 Banking Act of 1948,”~~”~~ P. L. 1948, c. 67 (C. 17:9A-1 et seq.),

7 shall have power (1) to subscribe for, purchase and hold stock
8 of one or more insurance companies organized under the laws
9 of this State which have been or may hereafter be limited to in-
10 sure banks, savings banks and other depository institutions (a)
11 against loss from the defaults of persons in positions of trust,
12 public or private, or against loss or damage on account of neglect
13 or breaches of duty or obligations guaranteed by the insurer; and
14 against loss of any bills of exchange, notes, checks, drafts, ac-
15 ceptances of drafts, bonds, securities, evidences of debt, deeds,
16 mortgages, documents, gold or silver, bullion, currency, money,
17 platinum and other precious metals, refined or unrefined and
18 articles made therefrom, jewelry, watches, necklaces, bracelets,
19 gems, precious and semiprecious stones, and also against loss
20 resulting from damage, except by fire, to the insured's premises,
21 furnishings, fixtures, equipment, safes and vaults therein caused by
22 burglary, robbery, hold-up, theft or larceny, or attempt thereat.
23 No such indemnity indemnifying against loss of any property as
24 specified herein shall indemnify against the loss of any such
25 property occurring while in the mail or in the custody or posses-
26 sion of a carrier for hire for the purpose of transportation, except
27 for the purpose of transportation by an armored motor vehicle
28 accompanied by one or more armed guards; and

29 (b) Against loss or damage by burglary, theft, larceny, rob-
30 bery, forgery, fraud, vandalism or malicious mischief, or any one
31 or more of such hazards; and against any and all kinds of loss or
32 destruction of or damage to moneys, securities, currencies, scrip,
33 coins, bullion, bonds, notes, drafts, acceptances of drafts, bills of
34 exchange and other valuable papers or documents, except while in
35 the custody or possession of and being transported by a carrier
36 for hire or in the mail.

37 (2) To make loans and investments as authorized for associa-
38 tions by section 155 of the "Savings and Loan Act (1963)," P. L. 1963, c. 144 (C. 17:12B-155).

40 (3) To make loans and investments as authorized for associa-
41 tions by, and subject to the limitations of, sections 157 through
42 160 through 162 through 164 of the "Savings and Loan Act
43 (1963)," P. L. 1963, c. 144 (C. 17:12B-157 through C. 17:12B-160
44 and C. 17:12B-162 through C. 17:12B-164).

45 (4) To extend credit through the use of credit cards issued by
46 it through an arrangement with participating vendors, and with-
47 out limitation of the generality of the foregoing, to exercise all the
48 powers permitted to associations pursuant to subsection 18 of

49 section 48 of the "Savings and Loan Act (1963)," P. L. 1963,
50 c. 144 (C. 17:12B-48).

51 (5) To make any investment authorized for associations by
52 section 165 of the "Savings and Loan Act (1963)," P. L. 1963,
53 c. 144 (C. 17:12B-165), provided, however, that where reference
54 is made to State associations or federal associations therein such
55 reference for purposes of this act shall be deemed to refer to
56 banking institutions as defined in section 1 of ["The Banking
57 Act of 1948,"] P. L. 1948, c. 67 (C. 17:9A-1).

58 (6) To exercise any powers and activities that have been or are
59 hereafter approved by regulation of the Board of Governors of the
60 Federal Reserve System as being so closely related to banking or
61 managing or controlling banks as to be a proper activity for a bank
62 holding company pursuant to the "Bank Holding Company Act of
63 1956," 70 Stat. 133 (12 U. S. C. § 1841 et seq.) and regulations
64 thereunder.

65 (7) To apply to the commissioner for authority, and if granted,
66 to exercise any power or activity that has been or is hereafter
67 deemed to be closely related to banking under the "Bank Holding
68 Company Act of 1956," 70 Stat. 133 (12 U. S. C. § 1841 et seq.)
69 and which has been permitted on an individual basis by order of
70 the Board of Governors of the Federal Reserve System.

71 (8) To make loans, as defined in this subsection, pursuant to
72 which the parties may contract for and the bank or savings bank
73 may receive interest or other compensation at a rate or rates or
74 in an amount that the bank or savings bank and the borrower
75 may agree upon, notwithstanding the provisions of any other law
76 of this State, except N. J. S. 2C:21-19, which limits the interest
77 rate or finance charge which would otherwise be applicable to the
78 loan. A loan, for the purposes of this subsection, includes loans
79 in the amount of \$5,000.00 or more, payable on demand or in
80 installments, and (a) which is for the purpose of acquiring or is
81 secured by equipment used for business or commercial purposes
82 or (b) is secured by (i) an interest in warehouse receipts, bills
83 of lading, or other documents of title which are subject to chapter
84 7 of Title 12A of the New Jersey Statutes, or (ii) by an interest
85 in negotiable instruments or commercial paper which are subject
86 to chapter 3 of Title 12A of the New Jersey Statutes, or (iii) by
87 an interest in stocks, bonds, certificates of deposit or other se-
88 curities which are subject to chapter 8 of Title 12A of the New
89 Jersey Statutes, or (iv) by an interest in any combination of
90 the foregoing.

91 (9) To engage in the business of providing data processing and
92 computer services.

93 (10) To acquire, by purchase or otherwise, and to sell warrants,
94 options or other similar rights to any class or classes of equity
95 securities issued or to be issued by a corporation, if, at the time
96 the warrants, options or other similar rights are acquired, the
97 issuer, or its parent company, affiliate or subsidiary, is a borrower
98 of funds loaned by the bank or savings bank, and if the acquisition
99 by purchase or otherwise, and the sale of the warrants, options
100 or other similar rights neither adds to the bank's or savings bank's
101 credit risk nor increases the bank's or savings bank's financial
102 liabilities.

103 The commissioner may, by regulation, prescribe the manner in
104 which and the extent to which the powers enumerated in this
105 section may be exercised, including whether they are to be exer-
106 cised through a subsidiary corporation and may, by regulation,
107 prescribe other powers, not otherwise expressly authorized or
108 prohibited by law, which banks and savings banks may exercise.

109 *(11) To invest in, sell, purchase, participate in or otherwise*
110 *deal in secured or unsecured commercial loans. For purposes of*
111 *this subsection, "commercial loan" means a loan for commercial,*
112 *corporate, business or agricultural purposes that is not secured*
113 *by an interest in real property. A bank or savings bank may*
114 *charge and collect interest on commercial loans at a rate or rates*
115 *agreed to by the parties to the loan. The note or other evidence*
116 *of the loan may provide for an increase or decrease, or both, in*
117 *the rate applicable to the loan. Notwithstanding any other lend-*
118 *ing limitations imposed by the laws of this State, the aggregate*
119 *amount of the balances of all commercial loans that are not fully*
120 *secured outstanding at any time owed to a bank or savings bank*
121 *by one borrower shall not exceed 15% of the capital, surplus,*
122 *undivided profits and reserves of such bank or savings bank, and,*
123 *in addition, the aggregate amount of the balances of all fully*
124 *secured commercial loans outstanding at any time owed to a bank*
125 *or savings bank by one borrower shall not exceed 10% of the*
126 *capital, surplus, undivided profits and reserves of such bank or*
127 *savings bank.*

128 *The commissioner may promulgate regulations imposing a limi-*
129 *tation, expressed in terms of a percentage of total assets, upon*
130 *aggregate commercial loans made by savings banks. The regula-*
131 *tions shall have as their objective the placing of savings banks*
132 *on a substantial competitive parity with federal savings banks;*

133 *provided, however, that in no event shall the limitation imposed*
 134 *by the regulations be less than 25% of total assets.*

135 (12) *In addition to investments otherwise authorized for banks*
 136 *or savings banks, to make any investment in real estate, real estate*
 137 *loans, securities, bonds, notes, common and preferred stocks, or*
 138 *other legal obligations or debt or equity participation arrange-*
 139 *ments, with any corporation, body politic, partnership, association,*
 140 *joint venture, individual or other legal entity to the same degree*
 141 *as might be made by any prudent professional institutional in-*
 142 *vestors at the time of making any such investment. Total invest-*
 143 *ments made pursuant to this paragraph shall not exceed 10% of*
 144 *the assets of the bank or savings bank, or an amount approved*
 145 *by the commissioner, whichever is greater. The aggregate amount*
 146 *invested in any one legal entity shall not exceed 1% of the total*
 147 *assets of the bank or savings bank, or an amount approved by the*
 148 *commissioner, whichever is greater. A bank or savings bank is*
 149 *authorized to establish one or more subsidiaries that may engage*
 150 *in the activities permitted by this subsection.】**

1 *【51. Section 11 of P. L. 1982, c. 9 (C. 17:9A-8.11) is amended
 2 to read as follows:

3 11. A capital stock savings bank may merge with another sav-
 4 ings bank or federally chartered savings bank, whether mutual
 5 or capital stock, pursuant to the provisions of Article 21 of P. L.
 6 1948, c. 67 (C. 17:9A-132 to 17:9A-148).】*

1 * **【39.】** **34.** Section 26 of P. L. 1948, c. 67 (C. 17:9A-26)
 2 is amended to read as follows:

3 26. Additional powers of saving banks.

4 In addition to the powers specified in section 24, every savings
 5 bank shall, subject to the provisions of this act, have the following
 6 powers, whether or not such powers are specifically set forth in its
 7 certificate of incorporation:

8 (1) To receive money on deposit, to be repaid, upon such terms,
 9 not inconsistent with this act, as may be agreed upon between the
 10 depositor and the savings bank, according to the usual custom of
 11 savings banks;

12 (2) To give security for deposits when required by the law of
 13 this State or of the United States, or by the rules or orders of any
 14 court of this State, or of the United States, or by regulations of
 15 any officer or agency of this State or of the United States made
 16 pursuant to such law; provided, that, no savings bank shall be
 17 required to give security for deposits made by this State, or any
 18 political subdivision thereof, or any other body politic existing

19 under the laws of this State, to the extent that such deposits are
20 insured under any Federal legislation providing for the insurance
21 of bank deposits;

22 (3) To invest its deposits and its surplus in the manner provided
23 by this act, or otherwise by law provided;

24 (4) To be a member of the Federal home loan bank organized
25 in the district in which the savings bank is located, and to subscribe
26 for, purchase, hold, and surrender from time to time such amounts
27 of the stock of such Federal home loan bank as may be required
28 or as may be deemed advisable by such savings bank; to have and
29 exercise all powers, privileges and options which are by law con-
30 ferred upon such members; to comply with all requirements of
31 Federal legislation and the rules and regulations lawfully promul-
32 gated thereunder governing such membership as such legislation
33 and such rules and regulations may provide at the inception of
34 such membership, and as the same may from time to time there-
35 after be amended or supplemented; and to assume and discharge
36 all liabilities and obligations which may be required by reason of
37 such membership;

38 (5) To avail itself of the provisions of any Federal legislation
39 providing for the extension of any lawful banking activity provided
40 in such legislation and made available for participation by savings
41 banks; except that the power by this paragraph conferred shall not
42 be exercised unless the commissioner shall make a general order
43 authorizing such participation by savings banks upon such terms
44 and conditions as may in such order be prescribed[.];

45 (6) Upon application to and approval by the commissioner, to
46 act as custodian or trustee within the contemplation of the Federal
47 Self-Employed Individuals Tax Retirement Act of 1962, as amended
48 and supplemented, and as custodian, trustee or manager of any such
49 investment fund the authorized investments of which include, but
50 need not be limited to savings accounts or real estate loans, and the
51 beneficial interests in which may be represented by transferable
52 shares or certificates. Savings banks exercising the powers autho-
53 rized by this subsection shall segregate all funds held in such fiduci-
54 ary capacities from the general assets of the savings bank and shall
55 keep a separate set of books and records showing in detail all trans-
56 actions made under authority of this subsection. If individual rec-
57 ords are kept for each self-employed individual's retirement plan
58 and each such investment fund, then all such funds held in such
59 fiduciary capacities by a savings bank may be commingled for
60 appropriate purposes of investment. No funds held in such fiduci-
61 ary capacities shall be used by a savings bank in the conduct of

62 its business; however, such funds may be invested in savings ac-
63 counts of the savings bank in the event that the custodial, trust
64 or other plan does not prohibit such investment. In granting or
65 refusing the savings bank's application the commissioner shall take
66 into consideration the investment policies, amount, type and ade-
67 quacy of reserves, fidelity bonds and any legally required deposits
68 of the applicant; and other pertinent facts and circumstances.
69 Application to and approval by the commissioner for authority to
70 exercise the powers provided in this subsection shall not be required
71 as to a savings bank authorized to exercise agency or fiduciary
72 powers as a qualified bank[.]; and

73 (7) *To make commercial loans to the same extent as a bank may*
74 *make commercial loans**[. Any commercial loan made by a savings*
75 *bank pursuant to this subsection shall comply with regulations to*
76 *be promulgated by the commissioner. The regulations shall include*
77 *whatever provisions the commissioner deems necessary (a) to*
78 *conform a savings bank's powers to make commercial loans with a*
79 *bank's powers to make commercial loans, including reserve and*
80 *capital requirements; and (b) to insure that the powers granted*
81 *by this subsection shall be exercised in a manner consistent with the*
82 *safety and soundness of savings banks. A savings bank making a*
83 *commercial loan pursuant to this subsection shall be subject to all*
84 *of the limitations on liability set forth with regard to banks in*
85 *Article 13 of P. L. 1948, c. 67 (C. 17:9A-60 et seq.).*

86 *This subsection shall apply only to savings banks, and shall not*
87 *be construed to confer any additional powers to any person or*
88 *institution by operation of any parity law, or any other law au-*
89 *thorizing a person or institution to make or invest in investments*
90 *authorized for savings banks.][*** **, subject to all limitations im-*
91 *posed upon banks with respect to such liabilities by Article 13 of*
92 *P. L. 1948, c. 67 (C. 17:9A-60 et seq.), except that the aggregate*
93 *of all commercial loans outstanding may not exceed 10% of a*
94 *savings bank's total assets without the commissioner's approval.*
95 *The commissioner, upon application of a savings bank and approval*
96 *thereof by the commissioner, may authorize a savings bank to*
97 *make and have outstanding commercial loans in an unlimited*
98 *amount, or in a limited amount, but in excess of 10% the savings*
99 *bank's total assets. The commissioner shall issue regulations pro-*
100 *viding procedures for filing an application for the commissioner's*
101 *approval and defining terms such as "total assets" and "commer-*
102 *cial loans."* *The commissioner shall, within 30 days of receipt*
103 *of a completed application, approve the application if he finds*

104 *that the savings bank is being operated in a safe and sound man-*
 105 *ner, and: (a) has capital equal to that required from time to time*
 106 *by the Board of Governors of the Federal Reserve System for*
 107 *a bank chartered under the laws of a state of the United States*
 108 *which is a member of the Federal Reserve System and said capital*
 109 *shall be calculated in accordance with generally accepted account-*
 110 *ing principles as applied to banks; (b) is competently managed;*
 111 *and (c) demonstrates satisfactory experience and sufficient exper-*
 112 *tise in making commercial loans. This power to make commercial*
 113 *loans shall apply only to savings banks and no other person or*
 114 *institution shall exercise any power under this subsection by virtue*
 115 *of any parity law or law authorizing such person or institution*
 116 *to make or invest in investments authorized by savings banks.***

1 **[40.]** **35.** Section 1 of P. L. 1975, c. 48 (C. 17:9A-53.1)
 2 is repealed.

1 **[41.]** **36.** The commissioner shall promulgate rules and
 2 regulations, pursuant to the "Administrative Procedure Act,"
 3 P. L. 1968, c. 410 (C. 52:14B-1 et seq.), as may be necessary to
 4 effectuate the purposes of this act. The commissioner shall publish
 5 the rules and regulations referred to in this act within 60 days
 6 of the effective date of this act.*

1 *[52.]* **[*42.*]** **37.** This act shall take effect imme-
 2 diately*, *but the sections which refer to regulations shall not be-*
 3 *come operative until regulations relevant to those sections are*
 4 *adopted*.*

BANKING AND FINANCIAL INSTITUTIONS

Provides for the establishment of mutual savings bank holding
 company.

149 *authorized to establish one or more subsidiaries that may engage*
150 *in the activities permitted by this subsection.*

1 51. Section 11 of P. L. 1982, c. 9 (C. 17:9A-8.11) is amended
2 to read as follows:

3 11. A capital stock savings bank may merge with another sav-
4 ings bank *or federally chartered savings bank*, whether mutual
5 or capital stock, pursuant to the provisions of Article 21 of P. L.
6 1948, c. 67 (C. 17:9A-132 to 17:9A-148).

1 52. This act shall take effect immediately.

STATEMENT

This bill contains a number of provisions affecting depository institutions. The bill would require the Commissioner of Banking's approval for persons seeking acquisition or control of 5% of the capital stock of a capital stock savings bank, or for persons seeking to control the management and policies of a savings bank. The bill also contains certain anti-corporate takeover provisions to assist institutions in thwarting hostile takeovers.

The bill would permit the establishment of a mutual savings bank holding company by means of several alternative methods, and for the formation of a capital stock savings bank as a subsidiary to the holding company.

In addition, any depository institution would be permitted to convert to any other type of depository institution under the procedures established by the bill.

The bill also makes a number of amendments to the Banking Act of 1948 (P. L. 1948, c. 67, C. 17:9A-1 et seq.). Among other things, the bill contains certain amendments to the body of law affecting savings banks which are intended to conform existing law with federal parity provisions. Other amendments increase the amount savings banks may invest in certain obligations.

BANKING AND FINANCIAL INSTITUTIONS

Provides for the establishment of mutual savings bank holding company.

ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2042

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 19, 1986

This bill, as amended, contains the following provisions:

Section 1 provides definitions of key terms used in sections 1 through 32 of the bill.

Sections 2 through 6 establish a requirement that a person must secure prior approval from the Commissioner of Banking if he obtains control or exercises control of a capital stock savings bank, or if he acquires or offers to acquire beneficial ownership of more than 5% of the voting stock of a capital stock savings bank. The person must submit an application for the approval, following receipt of which, the commissioner shall schedule a hearing to be held within 60 days. The standards for approving the application are very similar to those for granting a new charter and include the applicant's financial condition, competence, experience, intentions, and the amount of any tender offer. The commissioner shall also consider the financial condition of the capital stock savings bank, the effect of the acquisition on the safety and soundness of the institution, the convenience and needs of the depositors and the community serviced by the capital stock savings bank, and the effect of the acquisition on competition.

Sanctions for violation of the act include injunctive relief, rescission, and in addition, either imprisonment for not more than one year, or a fine of no more than \$100,000.00, or both. Finally, the commissioner may impose a fine not to exceed \$10,000.00 following an administrative hearing.

The purpose of these sections is to give the Commissioner of Banking supervisory authority over those who control, or who seek to control capital stock savings banks.

Sections 7 through 10 establish a requirement that any person or group of persons who plan to effect a "control transaction" (i.e., an acquisition which would result in control of 25% or more of the voting stock of a capital stock savings bank) to notify by certified mail each shareholder of the plan. Each shareholder may, before the 21st day

following the control transaction, demand from the controlling person payment for his shares at the same price offered to other shareholders. The purpose of these sections is to provide increased protection against hostile takeovers.

Sections 11 through 32 permit the establishment of mutual savings bank holding companies which could, in turn, control subsidiary capital stock savings banks. A mutual holding company, because of its mutual nature, must be created from an existing mutual savings bank. This bill provides several alternative methods for doing this.

Method 1: The board of a mutual savings bank would incorporate a mutual holding company, then transfer a portion of its assets to the holding company, and finally, convert the mutual savings bank to a capital stock savings bank. The mutual holding company would hold at least 80% of the stock of the converted capital stock savings bank.

Method 2: The board of a mutual savings bank would incorporate a mutual holding company, then transfer a portion of its assets to the holding company, and finally, form a new capital stock savings bank as a subsidiary of the holding company. The original mutual savings bank, having created these two entities, may either: (1) merge with the subsidiary capital stock savings bank in a normal merger procedure or (2) sell its assets to the subsidiary capital stock savings bank and dissolve.

Method 3: The board of a mutual savings bank would incorporate a subsidiary capital stock savings bank and then transfer all of its assets and liabilities to the subsidiary capital stock savings bank in return for 80% of the capital stock of the subsidiary capital stock savings bank. The original mutual savings bank, having transferred its assets and liabilities to its subsidiary, would be then deemed to be a mutual savings bank holding company.

The bill establishes procedures for the incorporation of the mutual savings bank holding company and the subsidiary capital stock savings which are similar to those required for the incorporation of other depository institutions. It provides that the interests of the depositors of the original mutual savings bank be converted into interests of the same nature in the mutual savings bank holding company. Thus, the depositors indirectly hold the major interest in the subsidiary.

The purpose of these sections is to allow mutual savings banks to employ the holding company device to organize themselves. The use of holding companies will promote the expansion of the institutions by making possible and facilitating their ability to acquire and sell subsidiary capital stock savings banks. Although other types of financial institutions may currently employ the holding company device, mutual savings banks have not been able to, because of their mutual nature.

Section 33 would eliminate certain statutory restrictions on trust activities, thereby giving state-chartered savings banks the same trust powers as federally-chartered savings banks.

Section 34 makes a technical amendment to section 8 of P. L. 1948, c. 67 (known as the Banking Act of 1948) so that it will correspond with the changes made in section 33 above.

Section 35 would also extend the savings banks' trust powers.

Section 36 would eliminate language restricting a savings bank's mortgage lending to a first lien on real property. This language is inconsistent with existing parity provisions which permit the making of secondary mortgage loans.

Section 37 would allow a savings bank to purchase stock listed on the NASDAQ system.

Section 38 was amended to repeal the current prohibition against a savings bank's being a capital depositor in another savings bank in the state.

Section 39 was added by the committee to extend commercial loan powers to savings banks equal to that now held by (commercial) banks. The commissioner is authorized to promulgate regulations applicable to this type of loan.

Section 40 was added by the committee to repeal section C. 17:9A-53.1. This section currently imposes a limit on the percentage of savings bank assets which may be placed in installment loans at 10%.

The committee amendments deleted several sections which would have increased the percentages of assets which a savings bank may place in specified types of investments. The amendments also deleted cross-over merger and conversion sections. Other amendments increased the regulatory authority of the Commissioner of Banking over the transactions authorized by the bill, and clarified that the legislation does not authorize entry into the state by institutions from foreign jurisdictions. Finally, there were numerous technical amendments.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2042

[OFFICIAL COPY REPRINT]

with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 19, 1987

This bill, as amended, contains various provisions affecting savings banks.

Sections 2 through 6 of the bill require approval by the Commissioner of Banking for any person or persons seeking (a) to acquire or control 5% or more of the voting shares of a capital stock savings bank; (b) to control the election of the board of a capital stock savings bank; or (c) to otherwise control the management and policies of a capital stock savings bank.

The commissioner is required to hold a hearing within 60 days of receiving the application for control of a capital stock savings bank, and the applicant must give public notice of his application. The standards for approving the application are very similar to those for granting a new charter and include a review of the applicant's financial condition, competence, character and banking experience. In addition, the commissioner must consider the financial condition of the capital stock savings bank, the effect of the acquisition on the safety and soundness of the institution and the convenience and needs of the depositors and the community serviced by the institution.

In the event of noncompliance with the provisions of these sections, the commissioner may issue cease and desist orders. The target capital stock savings bank or a shareholder may bring an action to enjoin a violation of the provisions. Violation of these sections could also bring a maximum penalty of \$100,000.00 or a year's imprisonment, or both. In addition, an administrative penalty of up to \$10,000.00 may be levied by the commissioner.

The purpose of these sections is to give the commissioner supervisory authority over those who control, or who seek to control, capital stock savings banks.

Sections 7 through 27 permit the establishment of mutual savings bank bank holding companies which could, in turn, control subsidiary capital stock savings banks. A mutual holding company, because of its

mutual nature, must be created from an existing mutual savings bank. This bill provides several alternative methods for doing this.

Method 1: The board of a mutual savings bank may incorporate a mutual holding company, then transfer a portion of its assets to the holding company, and then, convert the mutual savings bank to a capital stock savings bank. The mutual holding company must hold at least 80% of the shares of the converted capital stock savings bank.

Method 2: The board of a mutual savings bank may incorporate a mutual holding company, transfer a portion of its assets to the holding company, and then, form a new capital stock savings bank as a subsidiary of the holding company. The original mutual savings bank, having created these two entities, may either: (a) merge with the subsidiary capital stock savings bank in a normal merger procedure or (b) sell its assets to the subsidiary capital stock savings bank and dissolve.

Method 3: The board of a mutual savings bank may incorporate a subsidiary capital stock savings bank and then transfer all of its assets and liabilities to the subsidiary capital stock savings bank in return for 80% of the capital stock of the subsidiary capital stock savings bank. The original mutual savings bank, having transferred its assets and liabilities to its subsidiary, would be then deemed to be a mutual savings bank holding company.

The bill establishes procedures for the incorporation of the mutual savings bank holding company and the subsidiary capital stock savings bank which are similar to those required for the incorporation of other depository institutions. It provides that the interests of the depositors in the original mutual savings bank be converted into interests of the same nature in the mutual savings bank holding company. Thus, the depositors indirectly hold the major interest in the subsidiary.

The purpose of these sections is to allow mutual savings banks to employ the holding company device to organize themselves. The use of holding companies will promote the expansion of the institutions by making possible and facilitating their ability to acquire and sell subsidiary capital stock savings banks. Although other types of financial institutions may currently employ the holding company device, mutual savings banks have not been able to, because of their mutual nature.

Sections 28 through 36 amend various provisions of current law concerning savings banks. Sections 28 through 30 eliminate certain statutory restrictions on the trust powers of savings banks. This would give State chartered savings banks the same trust powers as federally chartered savings banks. Section 31 eliminates the language restricting a savings bank's mortgage lending to a first lien on real property.

This language is inconsistent with existing parity provisions which permit the making of secondary mortgage loans. Section 32 extends the authority of a savings bank to purchase common stock listed on the National Association of Securities Dealers Automated Quotation System (NASDAQ). Section 33 repeals the current prohibition against a savings bank being a capital depositor in another savings bank in the State. Section 34 allows a savings bank to make commercial loans in an aggregate amount not exceeding 10% of its total assets. Upon application and approval by the commissioner, a savings bank may exceed this 10% limitation. Section 35 repeals the prohibition which limits a savings bank from making installment loans in excess of 10% of its assets.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact: CARL GOLDEN
609-292-8956 OR 292-6000 EXT. 207

TRENTON, N.J. 08625

Release: THUR. JULY 23, 1987

Governor Thomas H. Kean today signed legislation to permit State-chartered mutual savings banks to form mutual savings bank holding companies and to permit savings banks to make commercial loans.

The bill, A-2042, was sponsored by Assemblyman Louis Kosco, R-Bergen.

The effect of the bill is to allow the mutual savings bank holding companies to engage in interstate banking activities when legislation to permit such activities becomes law.

With respect to making commercial loans, the legislation establishes a ceiling of 10 percent of the total assets of a savings bank as the limit for such loans.

Other legislation signed by the Governor include:

S-2306, sponsored by Senator Walter Rand, D-Camden, to appropriate \$350,000 to the Department of Health to support cleft palates programs at four medical centers in the State --- Cooper Medical Center, Camden; St. Barnabas Medical Center, Livingston; Monmouth Medical Center, Long Branch, and St. Peters Medical Center, Jersey City. This legislation was merged with an identical bill, A-3620, sponsored in the Assembly by Assemblymen Anthony M. Villane, R-Monmouth, and Harold Colburn, R-Burlington.

A-4300, sponsored by Assemblyman Robert Littell, R-Sussex, to permit the use of a single prime construction contractor for the State House renovation project as well as for the construction of prisons.

- more -