

17B:20-1 and 17:2-9.3 ✓

LEGISLATIVE HISTORY CHECKLIST

NJSA: 17B:20-1 and 17:2-9.3

(African Development Bank--allow investments by various financial institutions)

LAWS OF: 1985

CHAPTER: 309

Bill No: A1444

Sponsor(s): Brown

Date Introduced: February 27, 1984

Committee: **Assembly:** State Government, Federal and Interstate Relations and Veterans' Affairs.

Senate: State Government, Federal and Interstate Relations and Veterans' Affairs.

Amended during passage: No

Date of Passage: **Assembly:** January 24, 1985

Senate: June 27, 1985

Date of Approval: August 27, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

See legislative history of L. 1985, c. 308.

ASSEMBLY, No. 1444

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 27, 1984

By Assemblyman BROWN

AN ACT concerning certain investments in the African Development Bank under certain circumstances and amending N. J. S. 17B:20-1 and P. L. 1947, c. 308.

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

1 1. N. J. S. 17B:20-1 is amended to read as follows:

2 17B:20-1. Any domestic insurer may invest its capital, surplus
3 and other funds, or any part thereof, in:

4 a. Bonds, notes, or other evidences of indebtedness or public
5 stock issued, created, insured or guaranteed by the United States,
6 any territory or possession thereof, this or any other State of the
7 United States, the District of Columbia, the Commonwealth of
8 Puerto Rico, Canada, or any of the provinces thereof, or any in-
9 strumentality, agency or political subdivision of one or more of the
10 foregoing.

11 b. Real estate which may be improved or which is unimproved
12 but acquired in accordance with a definite plan for development
13 within not more than five years, and in the improvement, develop-
14 ment, operation or leasing thereof; provided, that if the com-
15 missioner shall determine that the interest of such insurer's policy-
16 holders requires that any specific real estate so acquired be disposed
17 of, then such insurer shall dispose of such real estate within such
18 reasonable time as the commissioner shall direct; and provided
19 further, that the sum of (1) the aggregate amount invested in
20 such real estate (including real estate held pursuant to section
21 17B:18-45 of this Title) and (2) the aggregate amount invested

22 in capital stock of any subsidiary of the insurer pursuant to section
23 17B:20-4 engaged in a business primarily involving the owning,
24 improving, developing, operating or leasing of real estate shall
25 not exceed 10% of the total admitted assets of such insurer as of
26 December 31 next preceding. Real estate used primarily for agri-
27 cultural, horticultural, ranching, mining, forestry or recreational
28 purposes shall be deemed improved within the meaning of this
29 subsection b. The term "real estate" as used in this chapter shall
30 include any real property and any interest therein including, with-
31 out limitation, any interest on, above or below the surface of the
32 land, any leasehold estate therein, and any such interest held or to
33 be held by the insurer in cotenancy with one or more other persons
34 and any partnership interest held by the insurer in any general or
35 limited partnership engaged in a business primarily involving the
36 owning, improving, developing, operating or leasing of real estate.
37 Income produced by investment in any such leasehold shall be
38 applied in a manner calculated to amortize the amount invested in
39 such leasehold within a period not exceeding eight-tenths of the
40 unexpired term of the leasehold, inclusive of enforceable options,
41 or within 40 years, whichever is the lesser, or where the peculiar
42 nature of the leasehold involved so dictates, within such period
43 and subject to such other reasonable limitations as the commissioner
44 shall by regulation impose. For the purposes of this subsection b.,
45 a mortgage loan shall not be deemed to be an investment in real
46 estate notwithstanding the mortgagor is an institution in which such
47 insurer has an ownership interest as shareholder, partner, or
48 otherwise. The commissioner may promulgate a regulation in con-
49 nection with investments under this subsection b. which shall, as
50 far as practicable, be consistent with those regulations of the de-
51 partment which treat with securities supported by such interests in
52 real estate.

53 c. Mortgage loans on unencumbered real estate, located within
54 the United States, any territory or possession thereof, the Com-
55 monwealth of Puerto Rico or Canada. The amount of any such
56 loan shall not exceed 80% of the value of the real estate mort-
57 gaged unless (1) the loan is also secured by the mortgagor's interest
58 in a lease or leases whose aggregate rentals shall be sufficient, after
59 payment of operating expenses and fixed charges, to repay 90%
60 of the loan with interest thereon during the initial term or terms
61 of such lease or leases and shall be payable directly or indirectly
62 by any governmental units, instrumentalities, agencies or political
63 subdivisions or an institution or institutions which meet the credit
64 standards of the insurer for an unsecured loan to such institution

65 or institutions or (2) the loan is secured by a purchase money
66 mortgage or like security received by the insurer upon the sale or
67 exchange of real estate acquired pursuant to any provision of
68 this Title or (3) the excess over such 80% is insured or guaranteed
69 or to be insured or guaranteed by the United States, any territory
70 or possession thereof, this or any other State of the United States,
71 the District of Columbia, the Commonwealth of Puerto Rico, Canada
72 or any of the provinces thereof, or any instrumentality, agency or
73 political subdivision of one or more of the foregoing. Any mortgage
74 loan so insured or guaranteed or to be insured or guaranteed shall
75 not be subject to the provisions of any law of this State prescribing
76 or limiting the interest which may be charged or taken up any such
77 loan.

78 Any such insurer may hold a participation in any such mortgage
79 loan if (1) such participation is senior and gives the holder sub-
80 stantially the rights of a first mortgagee or (2) the interest of such
81 insurer in the evidence or evidences of indebtedness is of equal
82 priority, to the extent of such interest, with other interests therein.

83 Any such mortgage loan which exceeds two-thirds of the value of
84 the real estate mortgaged shall provide for such payments of
85 principal, whatever the period of the loan, that at no time during
86 the period of the loan shall the aggregate payments of principal
87 theretofore required to be made under the terms of the loan be
88 less than would have been necessary to reduce the loan to two-thirds
89 of such value by the end of 35 years through payments of interest
90 only for five years and equal payments applicable first to interest
91 and then to principal at the end of each year thereafter. The
92 commissioner may promulgate such supplemental regulations as
93 he deems necessary with regard to particular classes of such invest-
94 ments, taking into consideration the type of security and the ratio
95 of the loan to the value of the real estate mortgaged. No loan may
96 be made on leasehold real estate unless the terms of such loan
97 provide for payments to be made by the borrower on the principal
98 thereof in amounts sufficient to completely repay the loan within a
99 period not exceeding nine-tenths of the term of the leasehold,
100 inclusive of the term or terms which may be provided by any
101 enforceable option or options of extension or of renewal, which is
102 unexpired at the time the loan is made.

103 Real estate shall not be deemed to be encumbered within the
104 meaning of this subsection c. by reason of the existence of taxes or
105 assessments that are not delinquent, or encumbrances that do not
106 adversely affect the salability of the property to a material extent

107 or as to which the insurer is insured against loss by title insurance,
108 or any prior mortgage or mortgages held by such insurer if the
109 aggregate of the mortgages held shall not exceed the amount here-
110 inbefore set forth, nor when such real estate is subject to lease in
111 whole or in part; provided, that the security created by the
112 mortgage on such real estate is a first lien thereon. Real estate
113 shall not be deemed to be encumbered and the security of the
114 mortgage thereon shall be deemed a first lien within the meaning
115 of this subsection c. notwithstanding the mortgagor is an institution
116 in which such insurer has an ownership interest as shareholder,
117 partner or otherwise.

118 No such insurer shall, pursuant to this subsection c. invest more
119 than 2% of its total admitted assets as of December 31 next pre-
120 ceding in any mortgage loan secured by any one property, nor shall
121 its total mortgage investments pursuant to this subsection c., ex-
122 clusive of any mortgage loans secured by a purchase money mort-
123 gage or like security received by the insurer upon the sale or
124 exchange of real estate acquired pursuant to any provision of this
125 Title or insured or guaranteed or to be insured or guaranteed as
126 hereinbefore provided, exceed 50% of such admitted assets.

127 d. Tangible personal property, equipment trust obligations or
128 other instruments evidencing an ownership interest or other
129 interest in tangible personal property where there is a right to
130 receive determined portions of rental, purchase or other fixed
131 obligatory payments for the use or purchase of such personal prop-
132 erty, provided, that the aggregate of such payments together with
133 the estimated salvage value of such property at the end of its mini-
134 mum useful life and the estimated tax benefits to the insurer result-
135 ing from ownership of such property, is adequate to return the cost
136 of the investment in such property, and provided further, that the
137 aggregate net investments therein shall not exceed 10% of the total
138 admitted assets of such insurer as of December 31 next preceding;
139 or certificates of receivers of any institution where such purchase
140 is necessary to protect an investment in the securities of such
141 institution theretofore made under authority of this chapter; or
142 the capital stock, beneficial shares or other instruments evidencing
143 an ownership interest, bonds, securities or evidences of indebted-
144 ness issued, assumed or guaranteed by any institution created or
145 existing under the laws of the United States, any territory or
146 possession thereof, this or any other State of the United States,
147 the District of Columbia, the Commonwealth of Puerto Rico,
148 Canada or any of the provinces thereof; provided, that no purchase
149 of any evidence of indebtedness which is in default as to interest

150 shall be made by such insurer unless such purchase is necessary
151 to protect an investment theretofore made under statutory
152 authority.

153 The term "institution" as used in this chapter shall include any
154 corporation, joint stock association, business trust, business joint
155 venture, business partnership, savings and loan association, credit
156 union or other mutual savings institutions. No purchase shall be
157 made of the stock of any class of any corporation except a sub-
158 sidiary of the insurer pursuant to section 17B:20-4 unless (1) such
159 corporation has paid cash dividends on such class of stock during
160 each of the past five years preceding the time of purchase or (2) such
161 corporation shall have earned during the period of such five years
162 an aggregate sum available for dividends upon such stock which
163 would have been sufficient, after all fixed charges and obligations, to
164 pay dividends upon all shares of such class of stock outstanding
165 during such period averaging 4% per annum computed upon the par
166 value (or in the case of stock having no par value, upon the stated
167 capital in respect thereof) of such stock. In the case of the stock
168 of a corporation resulting from or formed by merger, consolidation,
169 acquisition or otherwise less than five years prior to such purchase,
170 each consecutive year next preceding the effective date of such
171 merger, consolidation or acquisition during which dividends or
172 other distributions of profits shall have been paid by any one or
173 more of its constituent or predecessor institutions shall be deemed
174 a year during which dividends have been paid on such class of stock
175 and the earnings of such constituent or predecessor institutions
176 available for dividends during each of such years may be included as
177 earnings of the existing corporation whose stock is to be purchased
178 for each of such years; provided, however, that nothing herein
179 contained shall prohibit the purchase of stock of any class which
180 is preferred, as to dividends, over any class the purchase of which
181 is not prohibited by this section; and provided further, that no
182 purchase of its own stock shall be made by any insurer except for
183 the purpose of the retirement of such stock or except as specifically
184 permitted by any law of this State applicable by its terms only to
185 insurers.

186 e. Securities, properties and other investments in foreign coun-
187 tries in addition to those specified in section 17B:20-5 which are
188 substantially of the same character as prescribed for authorized
189 investments for funds of the insurer under the preceding subsec-
190 tions of this section, to an amount valued at cost not exceeding in
191 the aggregate at any one time 2% of the total admitted assets
192 of such insurer as of December 31 next preceding; provided, how-

193 ever, that the amount invested in authorized investments in any
194 one foreign country pursuant to this subsection e. shall not exceed
195 in the aggregate, at any one time, 1% of such admitted assets. For
196 the purposes of this subsection e., Canada shall not be deemed to
197 be a foreign country.

198 f. Bonds, notes, or other evidences of indebtedness, issued, in-
199 sured or guaranteed or to be insured or guaranteed by the Inter-
200 national Bank for Reconstruction and Development, or by the
201 Inter-American Development Bank, or by the Asian Development
202 Bank, *or by the African Development Bank, except that no funds*
203 *invested in obligations issued, insured or guaranteed by the African*
204 *Development Bank shall be used in or shall go to South Africa.*

205 g. Collateral loans secured by a pledge of capital stock, bene-
206 ficial shares or other instruments evidencing an ownership in-
207 terest, bonds, securities or evidences of indebtedness qualified or
208 permitted for investment under any of the preceding subsections
209 of this section. The amount of any such loan shall not exceed 80%
210 of the market value of the security pledged at the date of the loan.

211 h. Loans or investments which are not qualified or permitted
212 under any of the preceding subsections of this section or which
213 are not otherwise expressly authorized by law; provided, that the
214 aggregate amount of such loans and investments, valued at cost,
215 shall not exceed at any one time 5% of the total admitted assets
216 of such insurer as of December 31 next preceding.

217 For the purposes of subsection c. and this subsection h., the
218 portion of a mortgage loan on unencumbered real estate which
219 does not exceed 80% of the value of the real estate mortgaged
220 shall be deemed to be a permitted investment under subsection c.
221 and the remainder of said loan may be deemed to be made under
222 this subsection h. Any investment originally made under this sub-
223 section h. which would subsequently, if it were being made, qualify
224 as a permitted investment under another subsection of this section
225 shall thenceforth be deemed to be a permitted investment under
226 such other subsection.

1 2. Section 1 of P. L. 1947, c. 308 (C. 17:2-9.3) is amended to read
2 as follows:

3 1. The following may, in addition to other investments allowed
4 by law, properly and legally invest any funds, including capital,
5 belonging to them or within their control in obligations issued or
6 guaranteed by the International Bank for Reconstruction and De-
7 velopment, or by the Inter-American Development Bank or the
8 Asian Development Bank *or the African Development Bank*; that
9 is to say:

10 (a) Insurance companies, insurance associations, and all other
11 persons carrying on an insurance business.

12 (b) Executors, administrators, guardians, committees, conserva-
13 tors, liquidators, rehabilitators, receivers, trustees, and all other
14 persons occupying similar fiduciary positions.

15 (c) Banks, trust companies, bankers and savings banks.

16 (d) Savings and loan, and building and loan associations, invest-
17 ment companies, and other financial institutions.

18 (e) Credit unions, cemetery associations, mutual benevolent and
19 benefit associations.

20 (f) Firemen's, police, and teachers' association pension and relief
21 funds.

22 (g) Other pension, retirement, compensation, and sinking fund
23 systems.

24 (h) The State and its counties, and municipalities and their sub-
25 divisions and agencies.

26 (i) All public officers, officials, boards, commissions, bodies and
27 agencies of the State and its counties, and municipalities and their
28 subdivisions and agencies.

29 (j) Any other individual, firm, group, corporation, association,
30 institution, and fund of any nature whatsoever.

31 *In the case of investments in obligations issued or guaranteed*
32 *by the African Development Bank, no funds shall be used in or shall*
33 *go to South Africa.*

1 3. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to permit various financial institutions to invest in the African Development Bank and to prohibit investments in the bank from being used in or going to South Africa.

Apartheid, as it exists in South Africa, legally limits the freedom of black citizens and effectively precludes their voice and participation in the governmental affairs of that nation. New Jersey should undertake every effort to condemn and to discourage racism and exploitation. This bill is another step in that direction.

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11 persons carrying on an insurance business.

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SENATE STATE GOVERNMENT, FEDERAL AND
INTERSTATE RELATIONS AND VETERANS AFFAIRS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1444

STATE OF NEW JERSEY

DATED: JUNE 20, 1985

This bill permits various public and private entities, such as insurance companies, banks, savings and loan associations, credit unions, pension funds, corporations, or the State and its political subdivisions, to invest in the African Development Bank. Presently, these entities can invest in the International Bank for Reconstruction and Development, the Inter-American Development Bank and the Asian Development Bank.

The African Development Bank was established in 1963 to provide financial and technical resources to African nations. In 1982, the bank amended its charter to expand its membership to nonregional countries.

The bill provides that no funds invested in obligations issued or guaranteed by the bank shall be used in or shall go to the Republic of South Africa.

A-1444, sponsored by Assemblyman Willie Brown, D-Essex, to permit State regulated institutions and public agencies to purchase securities issued by the African Development Bank. It prohibits the public or private purchase of investment from the bank which would be used in the Republic of South Africa. It was noted that this prohibition is unnecessary since South Africa is not a member of the Development Bank.

S-2610, sponsored by Senator Wynona Lipman, D-Essex, to designate the plaza in front of the Garden State Arts Center as "Count Basie Plaza" in recognition of his contributions to to the field of music.

S-2836, sponsored by Senator Edward O'Connor, D-Hudson, to provide for two additional Superior Court judges in Hudson County.

A-3855, sponsored by Assemblyman Wayne Bryant, D-Camden, to permit Camden and Middlesex counties to hire additional unclassified employees.

A-588, sponsored by Assemblyman Joseph Rocchini, D-Mercer, to establish certain rights of tenants with respect to the termination of leases before their expiration, as the result of the death or disability of the leasee or the leasee's spouse.

A-337, sponsored by Assemblyman Dennis Riley, D-Camden, to mandate that whenever a sewerage authority requires a person to deposit an amount of money exceeding \$5,000 for professional services, for inspection fees, or to satisfy performance guarantee requirements, that the money be deposited in an interest bearing account and that at least two-thirds of the interest be returned to the depositor.