

17:9A-24

LEGISLATIVE HISTORY CHECKLIST

FOR ATTACHMENTS
SEC 17 12B-5

NJRSA 17:12B-5; 17:12B-155; 17:9A-1, 17:9A-24; 17:1-12 (Savings & loan associations--secondary mortgage loans--permit issuance)

LAWS 1981 CHAPTER 74

Bill No. S1373

Sponsor(s) Bedell

Date Introduced June 26, 1980

Committee: Assembly Banking and Insurance

Senate Labor, Industry and Professions

Amended during passage	Yes	XX	Amendments during passage denoted by asterisks.
Date of Passage: Assembly	<u>Jan. 22, 1981</u>		Substituted for A2121 (original bill and Assembly committee statement enclosed)
Senate	<u>Dec. 11, 1980</u>		Assembly committee statement to A2121 identical to S1373 (OCR)
Date of approval	<u>March 23, 1981</u>		

Following statements are attached if available:

Sponsor statement	Yes	XX	(Below)
Committee Statement: Assembly	Yes	XX	
Senate	Yes	XX	NO
Fiscal Note	Yes	No	
Veto Message	Yes	No	
Message on signing	Yes	XX	

Following were printed:

Reports	Yes	No
Hearings	Yes	No

Sponsor's statement:

In order to give borrowers a greater opportunity to obtain secondary mortgage financing, this bill will permit banks, savings banks and savings and loan associations to make secondary mortgage loans at the same maximum term, amount and annual percentage rates permitted to secondary mortgage loan licenses pursuant to the Secondary Mortgage Loan Act.

6/22/81 SEP 1981

[OFFICIAL COPY REPRINT]

SENATE, No. 1373

STATE OF NEW JERSEY

INTRODUCED JUNE 26, 1980

By Senator BEDELL

Referred to Committee on Labor, Industry and Professions

AN ACT to amend the "Savings and Loan Act (1963)," approved August 30, 1963 (P. L. 1963, c. 144) and "The Banking Act of 1948," approved April 29, 1948 (P. L. 1948, c. 67) to permit banking institutions and savings and loan associations to make secondary mortgage loans **and supplementing chapter 1 of Title 17 of the Revised Statutes**.

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

1 1. Section 5 of P. L. 1963, c. 144 (C. 17:12B-5) is amended to read
2 as follows:

3 5. Definitions. The following words and phrases as used in this
4 act, unless a different meaning is plainly required by the context,
5 shall have the following meaning:

6 (1) "State association" shall mean any savings and loan associa-
7 tion, building and loan association, or any corporation, however
8 named, now or hereafter operating pursuant to the provisions of
9 this act.

10 (2) "Federal association" shall mean a savings and loan asso-
11 ciation organized pursuant to an Act of Congress approved June 30,
12 1933, entitled "Home Owners' Loan Act of 1933" or any subsequent
13 Act of Congress.

14 (3) "Association" shall mean both a State association and a
15 Federal association having its principal office in this State.

16 (4) "Insured association" shall mean an association whose sav-
17 ings members' accounts or savings deposits are insured by the
18 Federal Savings and Loan Insurance Corporation.

19 (5) "Board" shall mean the board of directors of any
20 association.

21 (6) "Commissioner" shall mean the Commissioner of Banking
22 of the State of New Jersey, or such other official as may hereafter

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

23 be charged by State law with the supervision of State associations.

24 (7) "Member" shall mean a person who holds an account or a
25 savings deposit in a mutual association as a savings member or as
26 a borrowing member.

27 (8) "Savings member" shall mean a member who holds an
28 account or a savings deposit representing savings in an association.

29 (9) "Borrowing member" shall mean a member to whom money
30 of the association is loaned or one who is the owner of property
31 upon which the association holds a mortgage.

32 (10) "Account" shall mean the record of the financial transac-
33 tions of a member or depositor as shown on the books of the
34 association.

35 (11) "Direct reduction loan" shall mean a loan the principal of
36 which is repayable in periodical installments.

37 (12) "Sinking fund loan" shall mean a loan, the principal of
38 which is contracted to be repaid with the participation value of an
39 installment account pledged as collateral security for the payment
40 of the loan.

41 (13) "Straight mortgage loan" shall mean a loan, the principal
42 of which is repayable upon a fixed day and upon which no interim
43 amortization is required.

44 (14) "Account loan" shall mean a loan secured by the pledge of
45 an account and the shares, if any, issued in connection therewith.

46 (15) "Capital" of a mutual State association shall mean the
47 aggregate participation value of all savings members' accounts.
48 It shall not be limited and shall be accumulated only by payments
49 by savings members, plus dividends credited to their accounts.

50 (16) "Participation value" of an account shall mean the amount
51 paid by a savings member on such account, plus dividends or
52 interest credited thereto, less payments of withdrawals and retire-
53 ments therefrom and any other amounts lawfully deductible
54 therefrom.

55 (17) "Withdrawal value" of an account shall mean the partici-
56 pation value of such an account, at the time application for
57 withdrawal of the account is filed, less such part, if any, of the
58 dividends or interest then credited to such account as the associa-
59 tion is authorized to retain upon withdrawal.

60 (18) "Gross income" shall have the meaning ascribed to it in
61 section 6 of this act.

62 (19) "Net income" shall have the meaning ascribed to it in
63 section 7 of this act.

64 (20) "Federal Savings and Loan Insurance Corporation" shall
65 mean the corporation so named, organized pursuant to an Act

66 of Congress, or any Federal corporation, instrumentality or agency
67 which succeeds to the powers and functions of the Federal Savings
68 and Loan Insurance Corporation or undertakes to discharge the
69 purposes for which said corporation was created.

70 (21) "Federal Home Loan Bank Board" shall mean the board
71 so named, organized pursuant to an Act of Congress, or any
72 Federal corporation, instrumentality or agency which succeeds to
73 the powers and functions of the Federal Home Loan Bank Board,
74 or which is formed to carry out the purposes for which such board
75 was created.

76 (22) "Change in the bylaws" includes new bylaws and revisions,
77 amendments, supplements and repealers of existing bylaws.

78 (23) "Principal office," "branch office" and "auxiliary office"
79 shall have the meanings ascribed to them in section 8 of this act.

80 (24) "Agency" shall have the meaning ascribed to it in section
81 9 of this act.

82 (25) "Per capita assets" shall have the meaning ascribed to it
83 in section 10 of this act.

84 (26) "Population." Where in this act the population of a
85 municipality, a county, or the State is mentioned, the population
86 figure shall be the last current population estimate as furnished
87 to the commissioner by any official agency of the State or Federal
88 Government.

89 (27) "Municipality." The word municipality shall include
90 cities, towns, townships, villages and boroughs.

91 (28) "First lien" shall have the meaning ascribed to it in section
92 11 of this act.

93 (29) "Foreign association" shall mean any association or corpo-
94 ration conducting the business of a savings and loan association,
95 however designated, not incorporated under the provisions of this
96 act, except a Federal association.

97 (30) "Department" shall mean the Department of Banking of
98 New Jersey.

99 (31) "Mutual association" shall mean any State association
100 organized pursuant to the provisions of this act without capital
101 stock.

102 (32) "Capital stock association" shall have the meaning ascribed
103 to it in section 15 of [this amendatory and supplementary act]
104 *P. L. 1974, c. 137 (C. 17:12B-244)*.

105 (33) "Capital stock" shall have the meaning ascribed to it in
106 section 15 of [this amendatory and supplementary act] *P. L. 1974,*
107 *c. 137 (C. 17:12B-244)*.

108 (34) "Stockholder" shall have the meaning ascribed to it in
 109 section 15 of [this amendatory and supplementary act] P. L. 1974,
 110 c. 137 (C. 17:12B-244).

111 (35) "Secondary mortgage loan" means a loan made to an indi-
 112 vidual, association, joint venture, partnership, limited partnership
 113 association, or any other group of individuals however organized,
 114 except a corporation, which is secured in whole or in part by a lien
 115 upon any interest in real property created by a security agreement,
 116 including a mortgage, indenture, or any other similar instrument
 117 or document, which real property is subject to one or more prior
 118 mortgage liens and which is used as a dwelling, including a dual
 119 purpose or combination type dwelling which is also used as a busi-
 120 ness or commercial establishment, and has accommodations for not
 121 more than 6 families, except that a loan which: (a) is to be repaid
 122 in 90 days or less; (b) is taken as security for a home repair con-
 123 tract executed in accordance with the provisions of P. L. 1960, c. 41
 124 (C. 17:16C-62 et seq.); *[(c) is at an interest rate which is not in
 125 excess of the usury rate in existence at the time the loan is made,
 126 as established in accordance with the law of this State, and on which
 127 loan the borrower has not agreed to pay, directly or indirectly, any
 128 charge, cost, expense or any fee whatsoever other than said inter-
 129 est;]* or *[(d)]* *(c)* is the result of the private sale of a dwelling
 130 if title to the dwelling is in the name of the seller and the seller has
 131 resided in said dwelling for at least 1 year if the buyer is pur-
 132 chasing said dwelling for his own residence and, as part of the
 133 purchase price, executes a secondary mortgage in favor of the
 134 seller; shall not be included within the definition of "secondary
 135 mortgage loan."

1 2. Section 155 of P. L. 1963, c. 144 (C. 17:12B-155) is amended to
 2 read as follows:

3 155. Other loans. Other loans may be made as follows:

4 A. Account loans: Loans secured by a pledge of a member's
 5 savings account. No such loan shall exceed the withdrawal value
 6 of the pledged account, less interest thereon for a period of 6
 7 months. Interest on such loans shall not be charged at a rate in
 8 excess of the maximum permitted under the provisions of R. S.
 9 31:1-1 unless a higher rate is required by any applicable Federal
 10 regulation that establishes minimum rates that must be charged on
 11 loans secured by savings accounts; in which event, the interest
 12 charged shall not be greater than that specified by such Federal
 13 regulation.

14 B. Purchase of loans. An association may purchase any mort-
 15 gage loan, property repair, alternation, improvement or rehabilita-

16 tion loan, or any other loan which an association is authorized to
17 make.

18 C. Loans secured by a mortgage upon a lease of the fee of real
19 property. Any association may invest in any obligation secured by
20 a mortgage which is a first lien, as defined in section 11 of this act,
21 on a lease of the fee of real property located in this State. The term
22 of the leasehold interest securing such loan shall be not less than
23 50 years from the date such loan is granted, otherwise; such loans
24 shall be made pursuant to sections 146 through 154, 167 and 168 of
25 this act.

26 D. Camp meeting leaseholds. An association may invest in any
27 obligation secured by a first mortgage, as defined in section 11 of
28 this act, on any leasehold estate of real estate, in this State, of
29 any camp meeting association, to the extent authorized by, and
30 subject to, the limitations and restrictions contained in R. S. 17:2-1.

31 E. Loans otherwise authorized. An association may make any
32 other loan which it may be authorized to make by any law of this
33 State.

34 F. Loans on apartments or units established under the "Hori-
35 zontal Property Act" or the "Condominium Act." An association
36 may invest in any obligation secured by a mortgage which is a
37 first lien, as defined in section 11 of this act, on an apartment which
38 is part of a horizontal property regime established under the
39 "Horizontal Property Act" or upon a unit which is part of a
40 condominium established under the "Condominium Act." All such
41 loans shall be made pursuant to sections 146 through 154, 167 and
42 168 of this act.

43 G. Educational loans. In addition to the authority otherwise
44 granted by law for an association to make loans guaranteed or
45 insured in whole or in part by the United States of America or
46 the State of New Jersey, or any instrumentality or agency of
47 either of them, or for which a commitment to so guarantee or
48 insure has been made, an association may make any loans so
49 guaranteed or insured or for which a commitment to so guarantee
50 or insure has been made where such loans are made for the pur-
51 poses of financing the expenses of higher education. Such loans
52 may be made in accordance with the terms and conditions permitted
53 by the guaranteeing or insuring authority, notwithstanding any
54 other provisions of law limiting interest or other charges or pre-
55 scribing other terms and conditions.

56 H. Loans on building lots. An association may invest in any
57 obligation secured by a mortgage which is a first lien on a building

58 lot, where it is represented by the borrower at the time the loan is
 59 made that he intends to build or have built a dwelling on the build-
 60 ing lot for his own use and occupancy. The amount of such loan
 61 shall not exceed 80% of the value of the real estate as found by
 62 appraisal at the time the loan is granted and shall be a direct
 63 reduction loan as defined in section 5 of this act, which shall require
 64 periodic payments sufficient to pay the principal and interest on
 65 the loan in full over a period of 10 years or less.

66 *I. Secondary mortgage loans. An association may make or invest*
 67 *in any secondary mortgage loan as defined in section 5 of P. L. 1963,*
 68 *c. 144 (C. 17:12B-5). Secondary mortgage loans shall be repayable*
 69 *in installments under the same terms and conditions as provided for*
 70 *secondary mortgage loan licensees under the "Secondary Mortgage*
 71 *Loan Act," P. L. 1970, c. 205 (C. 17:11A-34 et seq.) only with re-*
 72 *spect to * [maximum term, maximum loan amount and] * maximum*
 73 *annual percentage rate of interest. The Commissioner of Banking*
 74 *shall have the power, in relation to a "secondary mortgage loan,"*
 75 *to adopt, amend, alter or rescind regulations, the requirements of*
 76 *which, in his judgment, are necessary for the implementation of*
 77 *this subsection.*

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

3 1. Definitions.

4 As used in this act, and except as otherwise expressly provided
 5 in this act,

6 (1) "Bank" shall include the following:

7 (a) Every corporation heretofore organized pursuant to
 8 the act entitled "An act concerning banks and banking (Re-
 9 vision of 1899)," approved March 24, 1899;

10 (b) Every corporation heretofore organized pursuant to the
 11 act entitled "An act concerning trust companies (Revision
 12 of 1899)," approved March 24, 1899;

13 (c) Every corporation heretofore organized pursuant to
 14 chapter 4 of Title 17 of the Revised Statutes;

15 (d) Every corporation, other than a savings bank, hereto-
 16 fore authorized by any general or special law of this State to
 17 transact business as a bank or as a trust company, or as both;

18 (e) Every corporation hereafter organized pursuant to
 19 article 2 of this act;

20 (2) "Banking institution" shall mean a bank, savings bank, and
 21 a national banking association having its principal office in this
 22 State;

23 (3) "Board of managers" of a savings bank shall include the
24 board of trustees of a savings bank;

25 (4) "Capital stock" shall include both common stock and pre-
26 ferred stock;

27 (5) "Certificate of incorporation," unless the context requires
28 otherwise, shall mean

29 (a) The certificate of incorporation, together with all
30 amendments thereto, of every bank and savings bank organized
31 pursuant to any general law of this State;

32 (b) The charter, together with all amendments thereto, of
33 every bank and savings bank organized pursuant to any special
34 law of this State;

35 (6) "Commissioner" shall mean the Commissioner of Banking
36 of New Jersey;

37 (7) "Department" shall mean the Department of Banking of
38 New Jersey;

39 (8) "Fiduciary" shall include trustee, executor, administrator,
40 receiver, guardian, assignee, and every other person occupying
41 any other lawful office or employment of trust;

42 (9) "Manager" of a savings bank shall include a trustee of a
43 savings bank;

44 (10) "Municipality" shall mean a city, town, township, village,
45 and borough of this State;

46 (11) "Population" shall mean the population as determined
47 by the latest Federal census or as determined by the commissioner
48 from other information which he may deem reliable;

49 (12) "Qualified bank" shall mean

50 (a) A bank which has heretofore been authorized or which
51 shall hereafter be authorized to exercise any of the powers
52 authorized by section 28;

53 (b) A savings bank which has heretofore been authorized
54 or which shall hereafter be authorized to exercise any of the
55 powers authorized by section 28; and

56 (c) A national banking association having its principal
57 office in this State authorized to act as a fiduciary;

58 (13) "Savings bank" shall include the following:

59 (a) Every corporation heretofore organized pursuant to the
60 act entitled "An act concerning savings banks," approved
61 April 12, 1876;

62 (b) Every corporation heretofore organized pursuant to the
63 act entitled "An act concerning savings banks," approved
64 May 2, 1906;

65 (c) Every corporation heretofore organized pursuant to
66 chapter 6 of Title 17 of the Revised Statutes;

67 (d) Every corporation, other than a bank, authorized by
68 any general or special law of this State to carry on the business
69 of a savings bank or institution or society for savings;

70 (e) Every corporation hereafter organized pursuant to
71 article 3 of this act;

72 (14) "Branch office" of a bank or savings bank shall mean an
73 office, unit, station, facility, terminal, space or receptacle at a fixed
74 location other than a principal office, however designated, at which
75 any business that may be conducted in a principal office of a bank
76 or savings bank may be transacted. "Branch office" includes full
77 branch offices, minibranch offices and communication terminal
78 branch offices.

79 (15) "Full branch office" means a branch office of a bank or
80 savings bank not subject to the limitations or restrictions imposed
81 upon minibranch offices or communication terminal branch offices;

82 (16) "Minibranch office" means a branch office of a bank or sav-
83 ings bank which does not occupy more than 500 square feet of
84 floor space and which does not contain more than four teller
85 stations, manned by employees of the bank or savings bank;

86 (17) "Communication terminal branch office" means a branch
87 office of a bank or savings bank which is either manned by a bona
88 fide third party under contract to a bank or savings bank or un-
89 manned and which consists of equipment, structure or systems, by
90 means of which information relating to financial services rendered
91 to the public is transmitted and through which transactions with
92 banks and savings banks are consummated, either instantaneously
93 or otherwise.

94 (18) "*Secondary mortgage loan*" means a loan made to an indi-
95 vidual, association, joint venture, partnership, limited partnership
96 association, or any other group of individuals however organized,
97 except a corporation, which is secured in whole or in part by a lien
98 upon any interest in real property created by a security agreement,
99 including a mortgage indenture, or any other similar instrument or
100 document, which real property is subject to one or more prior
101-102 mortgage liens and which is used as a dwelling, including a dual
103 purpose or combination type dwelling which is also used as a busi-
104 ness or commercial establishment, and has accommodations for not
105 more than six families, except that a loan which: (a) is to be repaid
106 in 90 days or less; (b) is taken as security for a home repair contract
107 executed in accordance with the provisions of P. L. 1960, c. 41

108 (C. 17:16C-62 et seq.); *[(c) is at an interest rate which is not in
 109 excess of the usury rate in existence at the time the loan is made,
 110 as established in accordance with the law of this State, and on which
 111 loan the borrower has not agreed to pay, directly or indirectly, any
 112 charge, cost, expense or any fee whatsoever other than said inter-
 113 est;]* or *[(d)]* *(c)* is the result of the private sale of a dwell-
 114 ing if title to the dwelling is in the name of the seller and the seller
 115 has resided in said dwelling for at least 1 year if the buyer is pur-
 116 chasing said dwelling for his own residence and, as part of the
 117 purchase price, executes a secondary mortgage in favor of the
 118 seller; shall not be included within the definition of "secondary
 119 mortgage loan."

1 4. Section 24 of P. L. 1948, c. 67 (C. 17:9A-24) is amended to
 2 read as follows:

3 24. Powers of banks and savings banks.

4 Every bank and savings bank shall, subject to the provisions of
 5 this act, have the following powers, whether or not such powers
 6 are specifically set forth in its certificate of incorporation:

7 (1) to adopt a corporate seal, and to sue and be sued;

8 (2) to issue cashier's checks, treasurer's checks, and money
 9 orders; to transmit funds; to guarantee signatures and endorse-
 10 ments;

11 (3) to borrow money, and to pledge, mortgage or hypothecate its
 12 real or personal property as security therefor, and to execute and
 13 deliver all such instruments as may be necessary to evidence such
 14 borrowing, pledge, mortgage, or hypothecation;

15 (4) to keep, maintain, and rent out for hire, at any location
 16 occupied by its principal office or any branch office, safe deposit
 17 boxes or other receptacles for the safekeeping of personal property.
 18 In exercising the powers authorized by this paragraph, the bank
 19 or savings bank shall have, but shall not be confined to, the same
 20 rights and remedies conferred upon safe deposit companies;

21 (5) to purchase, hold, lease and convey real property or any in-
 22 terest therein for the following purposes, and for no others:

23 (a) such as may be necessary or convenient for the use, opera-
 24 tion, or housing of its principal office or any branch office, or an
 25 auxiliary office, or for the storage of records or other personal prop-
 26 erty, or for office space for use by its officers or employees, or which
 27 may be reasonably necessary for future expansion of its business,
 28 or which is otherwise reasonably incidental to the conduct of its
 29 business; and which may include, in addition to the space required
 30 for the transaction of its business, other space which may be let as

31 a source of income. In exercising the powers conferred by this sub-
32 paragraph, the bank or savings bank shall be subject to the limita-
33 tions imposed by paragraph (13) of this section;

34 (b) such as may be conveyed to it in whole or part satisfaction
35 of debts previously contracted in the course of its dealings;

36 (c) such as it shall purchase at sale under judgments and decrees
37 in its favor, and on foreclosure of mortgages held by it; and

38 (d) such as it shall purchase or acquire to minimize or prevent
39 the loss or destruction of any lien or interest therein;

40 provided, that all real property not held for any purpose specified
41 in subparagraph (a) of this paragraph, shall be sold within 5 years
42 of its acquisition, or within 5 years after the time it ceases to be
43 held for any purpose specified in subparagraph (a) of this para-
44 graph, unless the commissioner shall extend the time within which
45 such sale shall be made;

46 (6) to be a member of the Federal Reserve System; to sub-
47 scribe for, purchase, hold, and surrender such amounts of the
48 capital stock of the Federal Reserve Bank organized within the dis-
49 trict in which such bank or savings bank is located may be re-
50 quired or as may be deemed advisable by such bank or savings
51 bank; and to have and exercise all powers, privileges and options
52 which are conferred by law upon such members; to comply with all
53 requirements of Federal legislation and the rules and regulations
54 lawfully promulgated thereunder governing such membership as
55 such legislation and such rules and regulations may provide at the
56 time of inception of such membership, and as the same may from
57 time to time thereafter be amended or supplemented; and to assume
58 and discharge all liabilities and obligations which may be required
59 by reason of such membership;

60 (7) to be a member of Federal Deposit Insurance Corporation, or
61 of any successor corporation having for its purpose the insurance
62 of deposits, and to do all things, and assume and discharge all liabil-
63 ities and obligations imposed upon such members by Federal legis-
64 lation or by rules and regulations lawfully promulgated pursuant
65 thereto, as the same may provide at the inception of such member-
66 ship, or as the same may thereafter be amended or supplemented;

67 (8) to be a member of any Federal agency hereafter created,
68 membership in which is open to banking institutions, and the pur-
69 pose of which is to afford advantages or safeguards to banking
70 institutions, or to their depositors, and to comply with all the
71 requirements and conditions imposed upon such members, except
72 that the power by this paragraph conferred shall not be exercised

73 unless the commissioner, with the concurrence of the banking ad-
74 visory board, shall make a general order authorizing banks or
75 savings banks, or both, to become and be such members, upon such
76 terms and conditions as may in such order be prescribed;

77 (9) to subscribe for, purchase and hold stock of one or more safe
78 deposit companies which have been or may be organized to do
79 business on or adjacent to premises occupied by the principal office
80 or a branch office of the bank or savings bank; provided, that

81 (a) in the case of a savings bank, the amount so invested shall
82 not exceed 5% of its surplus; and

83 (b) in the case of a bank, the amount so invested shall not exceed
84 10% of its capital stock and surplus; and

85 (c) each purchase of such stock shall first have been authorized
86 by a resolution, stating the number of shares to be purchased and
87 the amount to be paid therefor, adopted by its board of directors
88 or board of managers, and, in the case of a bank, approved by a
89 majority in interest of its stockholders at any annual or special
90 meeting; and

91 (d) each purchase of such stock by a bank or savings bank shall
92 have been approved in writing by the commissioner;

93 (10) to subscribe for, purchase and hold stock of not more than
94 one fiduciary institution organized under any law of this State
95 hereafter enacted; provided, that

96 (a) in the case of a savings bank, the amount so invested shall
97 not exceed 10% of its surplus; and

98 (b) in the case of a bank, the amount so invested shall not ex-
99 ceed 20% of its capital stock and surplus; and

100 (c) each purchase of such stock shall first have been authorized
101 by a resolution, stating the number of shares to be purchased and
102 the amount to be paid therefor, adopted by its board of directors
103 or board of managers, and, in the case of a bank, approved by a
104 majority in interest of its stockholders at any annual or special
105 meeting; and

106 (d) each purchase of such stock by a bank or savings bank shall
107 have been approved in writing by the commissioner;

108 (11) to contribute to community funds, or to charitable, philan-
109 thropic, or benevolent instrumentalities conducive to public wel-
110 fare, or civic betterment, or the economic advantage of the com-
111 munity, and to instrumentalities for the protection or advancement
112 of the interests of banking institutions, such sums as its board of
113 directors or board managers may deem expedient and in the
114 interests of such bank or savings bank;

115 (12) to exercise all incidental powers, not specifically enumer-
116 ated in this act, which shall be necessary or convenient to carry
117 the business of the bank or savings bank;

118 (13) to invest in stock of a subsidiary of such bank or savings
119 bank which holds title to real property of the kind in which such
120 bank or savings bank could itself invest pursuant to subparagraph
121 (a) of paragraph 5 of this section, and to make secured or unsecured
122 loans to such subsidiary, without regard to the limitations imposed
123 by Article 13; but no bank or savings bank shall, except with the
124 prior approval of the commissioner (1) invest in real property pur-
125 suant to subparagraph (a) of paragraph (5) of this section; or (2)
126 invest in the stock or other securities of such subsidiary; or (3)
127 make a loan to such subsidiary, if the aggregate of all such invest-
128 ments and loans, when added to any indebtedness otherwise owing
129 by the subsidiary, will exceed 25% of the capital funds of the bank
130 or savings bank. As used in this paragraph, "subsidiary" of a
131 bank or savings bank means a corporation all of whose capital stock
132 and other securities having voting rights are owned by such bank
133 or savings bank, and whose powers are limited by its certificate
134 of incorporation, to the acquiring, holding, managing, selling,
135 leasing, mortgaging, altering, improving and otherwise dealing in
136 and with real property of the kind in which the bank or savings
137 bank could itself invest pursuant to subparagraph (a) of paragraph
138 (5) of this section; and "capital funds" means the aggregate of
139 the capital stock, the principal amount owing on all capital notes,
140 surplus and undivided profits of a bank, and the aggregate of the
141 capital deposits, if any, and the surplus of a savings bank. Every
142 subsidiary of a bank or savings bank shall be subject to examination
143 by the commissioner as provided in the case of banks and savings
144 banks pursuant to sections 260, 261, 262, 263 and 335, and the
145 ultra vires or unlawful act of a subsidiary of a bank or savings
146 bank shall be deemed to be the ultra vires or unlawful act of such
147 bank or savings bank for the purposes of Article 42. In determin-
148 ing whether to give or withhold approval of an investment or loan
149 in excess of the limitation imposed by this paragraph, the com-
150 missioner shall consider whether the making of such loan or in-
151 vestment is consistent with sound banking practice, having regard
152 to (1) the ratio between the aggregate of such loans and invest-
153 ments and the capital funds of the bank or savings bank; (2) the
154 benefits to the bank or savings bank reasonably to be anticipated
155 from such investment or such loan; (3) the ratio between such
156 aggregate capital funds and total deposits; and (4) such other

157 factors as the commissioner shall consider germane to the protec-
 158 tion of deposits. A violation of any provision of this paragraph
 159 by any bank, savings bank, or subsidiary of a bank or savings
 160 bank, shall not impair the validity of sufficiency of any deed of con-
 161 veyance, mortgage, or lease made by such bank, savings bank, or
 162 subsidiary, of any real property owned by it; nor shall any other
 163 interest in such real property, acquired by or vested in any person
 164 claiming through or under such bank, savings bank, or subsidiary,
 165 or to which such person may be entitled, be impaired by reason of
 166 such violation.

167 *(14) to make or invest in any secondary mortgage loan as defined*
 168 *in section 1 of P. L. 1968, c. 67 (C. 17:9A-1). Secondary mortgage*
 169 *loans shall be repayable in installments under the same terms and*
 170 *conditions as provided for secondary mortgage loan licensees under*
 171 *the "Secondary Mortgage Loan Act," P. L. 1970, c. 205 (C.*
 172 *17:11A-34, et seq.) only with respect to maximum term, maximum*
 173 *loan amount and maximum annual percentage rate of interest. The*
 174 *Commissioner of Banking shall have the power, in relation to a*
 175 *"secondary mortgage loan," to adopt, amend, alter or rescind regu-*
 176 *lations, the requirements of which, in his judgment, are necessary*
 177 *for the implementation of this paragraph.*

1 *5. (New section) The Commissioner of Banking shall, on or
 2 before March 31 of each year, report to the Legislature on the
 3 impact of P. L., c. (now pending before the Legislature
 4 as Senate Bill No. 1373 of 1980) on the consumers of this State.

1 ***[5.]*** *6.* This act shall take effect immediately.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

SENATE, No. 1373

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 22, 1981

This legislation, which is identical to Assembly Bill No. 2121 ACS, permits not only savings and loan associations but also banking institutions to make secondary mortgage loans under the Secondary Mortgage Act. This bill has the effect of permitting these depository institutions to make secondary mortgage loans at a higher rate than presently authorized by law, and relieves them of any limitations on the amount of the loan or term of the loan presently imposed by the Banking Act of 1948 or by the Savings and Loan Act of 1963 and amendments proposed thereto.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

MARCH 23, 1981

PAT SWEENEY

Governor Brendan Byrne has signed the following bills into law:

S-1373, sponsored by Senator Eugene J. Bedell (D-Monmouth), which permits state-chartered savings and loan companies and banks to issue second mortgages.

The bill is a state legislative response to the federal deregulations of federally chartered institutions. The Federal Depository Institutions Deregulation and Monetary Control Act of 1960 permitted federally chartered savings and loans to issue second mortgages.

S-1032, sponsored by Senator S. Thomas Gagliano (R-Monmouth), which amends the Interlocal Services Aid Act to permit the disbursement of grants for the study of the feasibility of "pooling" of self insurance by municipalities.

S-1412, sponsored by Senator James S. Cafiero (R-Cumberland), which provides greater uniformity in the procedures governing the discharge of county and municipal employees not protected by Civil Service (Title II).

The procedure is now similar to that governing civil service municipal and county employees.

AJR-15, sponsored by Assemblyman Jimmy Zangari (D-Essex), which designates March 12 through 21 as "Poison Prevention Week" in New Jersey.

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