

17:16C-1

LEGISLATIVE HISTORY CHECKLIST

NJSA 17:16C-1 (Retail Installment Sales Act--
various amendments)

LAWS 1981 CHAPTER 102

Bill No. A2119

Sponsor(s) Bornheimer and others

Date Introduced Oct. 6, 1980

Committee: Assembly Banking & Insurance

Senate Labor, Industry and Professions

Amended during passage Yes ~~No~~ Amendments during passage
denoted by asterisks

Date of Passage: Assembly Jan. 22, 1981

Senate Feb. 19, 1981

Date of approval March 31, 1981

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note Yes No

Veto Message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

6/29/81

102 81
3-31-81
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ASSEMBLY, No. 2119

STATE OF NEW JERSEY

INTRODUCED OCTOBER 6, 1980

By Assemblymen BORNHEIMER, BURSTEIN, VAN WAGNER,
KARCHER, MAYS, T. GALLO, HURLEY, KAVANAUGH,
SMITH, LITTELL and ORECHIO

Referred to Committee on Banking and Insurance

AN ACT to amend the "Retail Installment Sales Act of 1960," approved June 9, 1960 (P. L. 1960, c. 40), P. L. 1961, c. 121, P. L. 1966, c. 324, P. L. 1971, c. 399, P. L. 1971, c. 409 and P. L. 1977, c. 220.

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

1 1. Section 1 of P. L. 1960, c. 40 (C. 17:16C-1) is amended to
2 read as follows:

3 1. In this act, unless the context otherwise requires, the following
4 words and terms shall have the following meanings:

5 (a) "Goods" means all chattels personal which are primarily
6 for personal, family or household purposes, including merchandise
7 certificates and coupons to be exchanged for goods or services,
8 having a cash price of \$10,000.00 or less, but not including money
9 or other choses in action. Goods shall not include chattels personal
10 sold for commercial or business use.

11 (b) "Retail installment contract" means any contract, other
12 than a retail charge account or an instrument reflecting a sale
13 pursuant thereto, entered into in this State between a retail seller
14 and a retail buyer evidencing an agreement to pay the retail purchase price of goods or services, which are primarily for personal, family or household purposes, or any part thereof, in two or more installments over a period of time. This term includes a security agreement, chattel mortgage, conditional sales contract, or other similar instrument and any contract for the bailment or leasing of goods by which the bailee or lessee agrees to pay as compensation a sum substantially equivalent to or in excess of the value of the goods, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of such

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

24 goods upon full compliance with the terms of such retail install-
25 ment contract.

26 (c) "Retail seller" means a person who sells or agrees to sell
27 goods or services under a retail installment contract or a retail
28 charge account to a retail buyer, and shall include a motor vehicle
29 installment seller.

30 (d) "Retail buyer" means a person who buys or agrees to buy
31 goods or services from a retail seller, not for the purpose of re-
32 sale, pursuant to a retail installment contract or a retail charge
33 account.

34 (e) "Person" means an individual, partnership, firm, corpora-
35 tion, banking institution, association or any other group of indi-
36 viduals however organized.

37 (f) "Sales finance company" means and includes any person
38 engaging in this State in the business of acquiring or arranging
39 for the acquisition of retail installment contracts or obligations
40 incurred pursuant to retail charge accounts by purchase, discount,
41 pledge or otherwise from a retail seller which is not wholly owned
42 by or does not wholly own such person, and any person engaging,
43 directly or indirectly, in the business of soliciting the purchase of
44 retail installment contracts or obligations incurred pursuant to
45 retail charge accounts from a retail seller which is not wholly
46 owned by or does not wholly own such person, or in the business
47 of aiding the retail seller in selling, assigning or arranging for the
48 sale or assignment of retail installment contracts or obligations
48A incurred pursuant to retail charge accounts, and any person other
49 than a retail seller who enters into a retail charge account with a
50 retail buyer.

51 (g) "Motor vehicle" includes all vehicles used for transportation
52 upon a highway propelled otherwise than by muscular power, ex-
53 cepting such vehicles as run only upon rails or tracks.

54 (h) "Motor vehicle installment seller" means a dealer in motor
55 vehicles, who is required to be licensed under chapter 10 of Title 39
56 of the Revised Statutes and who sells or offers to sell a motor
57 vehicle to a retail buyer under a retail installment contract.

58 (i) "Cash price" means the minimum price for which the goods
59 or services subject to a retail installment contract or a retail charge
60 account or other goods or services of like kind and quality may be
61 purchased for cash from the seller by the buyer, as stated in the
62 retail installment contract, the retail charge account or an instru-
63 ment reflecting a sale pursuant thereto.

64 (j) "Down payment" means all payments made in cash or in
65 goods or partly in cash and partly in goods, received by the retail
66 seller prior to or substantially contemporaneous with either the
67 execution of the retail installment contract or the delivery of the
68 goods, whichever occurs later.

69 (k) "Official fees" means the filing or other fees required by
70 law to be paid to a public officer to perfect an interest or lien, on
71 the goods, retained or taken by a retail seller under a retail in-
72 stallment contract and motor vehicle license and transfer fees
73 paid to the State.

74 (l) "Time price differential" means the amount or amounts,
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78 or a retail charge account. The term does not include the amount,
79 if a separate charge is made therefor, for insurance and official
80 fees.

81 (m) "Holder" means any person, including a retail seller, who
82 is entitled to the rights of a retail seller under a retail installment
83 contract or retail charge account.

84 (n) "Banking institution" means any *~~["savings and loan asso-~~
85 ~~ciation,]"~~ bank **~~["or"]~~** **, ** national banking association**,
85A *savings bank, or Federally chartered savings bank*** authorized to
86 do business in this State*, and for the purposes of this act only, an
86A *association as defined in section 5 of the "Savings and Loan Act*
86B *1963)"* P. L. 1963, c. 144 (c. 17:12B-5)*.

87 (o) "Commissioner" means the Commissioner of Banking of
88 New Jersey and includes his deputies or any salaried employee of
89 the Department of Banking named or appointed by the said com-
90 missioner to perform any function in the administration or enforce-
91 ment of this act.

92 (p) "Payment-period" means the period of time scheduled by
93 a retail installment contract to elapse between the days upon which
94 installment payments are scheduled to be made on such contract;
95 except that, when installment payments are scheduled to be omitted,
96 pursuant to section 26, "payment-period" means the period of time
97 scheduled by the contract to elapse between the days upon which
98 installment payments are scheduled to be made during that portion
99 of the contract period in which no installment payment is scheduled
100 to be omitted.

101 (q) "Contract period" means the period beginning on the date
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103 by the contract for the payment of the final installment.

104 (r) "Retail charge account" means any account, other than a
105 retail installment contract or a home repair contract which is sub-
106 ject to the "Home Repair Financing Act" (P. L. 1960, c. 41;
107 C. 17:16C-62 et seq.), established by an agreement which prescribes
108 the terms under which a retail buyer may from time to time pur-
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110 family or household purposes, and under which the unpaid balance
111 thereunder, whenever incurred, is payable in one or more install-
112 ments and under which a time price differential may be added in
113 each billing period as provided herein. Retail charge account also
114 includes all accounts arising out of the utilization by the holder
115 of a credit card, letter of credit or other credit identification issued
116 by a sales finance company, giving the holder the privilege of using
117 the credit card, letter of credit or other credit identification to
118 become a retail buyer in transactions out of which debt arises:
119 (1) by the sales finance company's payment or agreement to pay
120 the retail buyer's obligations; or (2) by the sales finance company's
121 purchase from the retail seller of the obligations of the user of
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123 retail buyer.

124 (s) "Services" means and includes work, labor and services,
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126 ily or household purposes but does not include services which are
127 subject to the "Home Repair Financing Act," and insurance pre-
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129 nance Company Act" (P. L. 1968, c. 221; C. 17:16D-1 et seq.).

130 (t) "Billing period" means the time interval between regular
131 periodic billing statement dates. In the case of monthly billing
132 periods, such intervals shall be considered equal intervals of time
133 if the billing date of a billing period does not vary more than 4
134 days from the billing date of the immediately preceding billing
135 period. In the case of billing periods which are not monthly, the
136 permissible variation in billing dates shall be that proportion of 4
137 days (adjusted to the nearest whole number) which the number
138 of days in the billing period bears to 30.

139 (u) "Professional services" means services rendered or per-
140 formed by a person authorized by law to practice a recognized
141 profession whose practice is regulated by law and the performance
142 of which services requires knowledge of an advanced type in a
143 field of learning acquired by a prolonged formal course of special-
144 ized instruction and study as distinguished from general academic
145 instruction or apprenticeship and training.

1 2. This act shall take effect immediately.

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139 (u) "Professional services" means services rendered or per-
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141 profession whose practice is regulated by law and the performance
142 of which services requires knowledge of an advanced type in a
143 field of learning acquired by a prolonged formal course of special-
144 ized instruction and study as distinguished from general academic
145 instruction or apprenticeship and training.

1 2. This act shall take effect immediately.

SPONSORS' STATEMENT

This bill amends a certain section of the "Retail Installment Sales Act of 1960" to eliminate a restriction which has become outdated through the passage of time.

The definition given to the term "banking institution" by the act has been expanded to include savings and loan associations. This would permit such associations to act as sales finance companies, without the necessity of obtaining a license to do so. Commercial banks have long been granted this authority.

New Jersey savings and loan associations already have authority to invest in and make consumer loans. Federal savings and loan associations have also been granted authority to make consumer loans for personal, family, or household purposes and to engage in or participate in credit card operations. This amendment would help maintain parity between Federal and New Jersey savings and loan associations and would eliminate a restriction which has become outdated by reason of the aforementioned similar powers already available to savings and loan associations.

A 2119 (1981)

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2119

STATE OF NEW JERSEY

DATED: NOVEMBER 24, 1980

This legislation, part of a package of bills designed to provide parity between State and Federally chartered savings and loan associations, amends the "Retail Installment Sales Act of 1960" to include savings and loan associations within the definition of "banking institution."

By the provisions of the Federal Depository Institutions Deregulation and Monetary Control Act of 1980 (DIDAMCA), savings and loan associations are given expanded powers with respect to the making of consumer loans. This legislation amends the Retail Installment Sales Act of 1960 (P. L. 1960, c. 40) to permit savings and loans to make consumer loans under the act. This would also have the effect of permitting them to issue credit cards on the same basis as commercial banks.

The amendment made by the Assembly Banking and Insurance Committee is intended only to clarify the point that a savings and loan association is defined as a "banking institution" only for the purposes of making loans under the Retail Installment Sales Act of 1960; in no sense is it the intention of the Legislature that associations be defined as a "banking institution" for the purposes of carrying out other functions or lending activities.

ASSEMBLY COMMITTEE AMENDMENTS TO

ASSEMBLY, No. 2119

STATE OF NEW JERSEY

ADOPTED NOVEMBER 24, 1980

Amend page 3, section 1, lines 84-85, omit "savings and loan association,".

Amend page 3, section 1, line 86, after "State", insert ", and for the purposes of this act only, an association as defined in section 5 of the 'Savings and Loan Act (1963)' P. L. 1963, c. 144 (c. 17:12B-5)'".

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127 subject to the "Home Repair Financing Act," and insurance pre-
128 miums financing which is subject to the "Insurance Premium Fi-
129 nance Company Act" (P. L. 1968, c. 221; C. 17:16D-1 et seq.).

130 (t) "Billing period" means the time interval between regular
131 periodic billing statement dates. In the case of monthly billing
132 periods, such intervals shall be considered equal intervals of time
133 if the billing date of a billing period does not vary more than 4
134 days from the billing date of the immediately preceding billing
135 period. In the case of billing periods which are not monthly, the
136 permissible variation in billing dates shall be that proportion of 4
137 days (adjusted to the nearest whole number) which the number
138 of days in the billing period bears to 30.

139 (u) "Professional services" means services rendered or per-
140 formed by a person authorized by law to practice a recognized
141 profession whose practice is regulated by law and the performance
142 of which services requires knowledge of an advanced type in a
143 field of learning acquired by a prolonged formal course of special-
144 ized instruction and study as distinguished from general academic
145 instruction or apprenticeship and training.

1 2. This act shall take effect immediately.

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SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 2119
with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 26, 1981

This legislation, part of a package of bills designed to provide parity between State and Federally chartered savings and loan associations, amends the "Retail Installment Sales Act of 1960" to include savings and loan associations within the definition of "banking institution."

By the provisions of the Federal Depository Institutions Deregulation and Monetary Control Act of 1980 (DIDAMCA), savings and loan associations are given expanded powers with respect to the making of consumer loans. This legislation amends the Retail Installment Sales Act of 1960 (P. L. 1960, c. 40) to permit savings and loans to make consumer loans under the act. This would also have the effect of permitting them to issue credit cards on the same basis as commercial banks.

The amendment made by the Assembly Banking and Insurance Committee is intended only to clarify the point that a savings and loan association is defined as a "banking institution" only for the purposes of making loans under the Retail Installment Sales Act of 1960; in no sense is it the intention of the Legislature that associations be defined as a "banking institution" for the purposes of carrying out other functions or lending activities.

The bill was amended on the Assembly floor to include in the definition of "banking institution" State or Federally chartered savings banks. Prior to this change, neither State nor Federally chartered savings banks could make consumer loans under the Retail Installment Sales Act (N. J. S. A. 17:16C-1 et seq.).

ASSEMBLY AMENDMENTS TO
ASSEMBLY, No. 2119
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED JANUARY 22, 1981

Amend page 3, section 1, line 85, after "bank", omit "or", insert ",".

Amend page 3, section 1, line 85, after "association", insert ", savings bank, or Federally chartered savings bank".

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

MARCH 31, 1981

KATHRYN FORSYTH

Governor Byrne has signed the following bills:

A-2118, sponsored by Assemblyman James Bornheimer (D-Middlesex), which permits a savings and loan association to issue credit cards, assume certain trust powers, and make commercial mortgage loans, installment loans, mobile home loans and home improvement loans.

It is designed to extend to State-chartered savings and loan associations benefits and powers similar to those enjoyed by federal associations and in part of a package of parity bills made necessary by the Federal Depository Institutions Deregulation Act which significantly increased the powers of federally chartered savings and loan associations.

A-2119, also sponsored by Assemblyman Bornheimer and also part of the parity legislation package. This bill amends the "Retail Installment Sales Act of 1960" to include savings banks and savings and loan associations within the definition of "banking institution," thus permitting these institutions to make retail installment loans under the act.

S-1575, sponsored by Senator Eugene Bedell (R-Monmouth) which amends the "Secondary Mortgage Act" by removing certain restrictions from secondary mortgage licensees.

The bill changes the definition of the security for a second mortgage to provide that any real property or stock in a cooperative corporation may be used to secure a second mortgage. Under the current provisions of the Act, only residential real estate may be used.

S-1575 also deletes the requirement that an applicant for a second mortgage must go to the first mortgagee. Under existing law, a secondary mortgage licensee had to first refer a borrower to the first mortgagee, who had the option of refinancing the borrower rather than using secondary mortgage financing.

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