

17:9A-24 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA 17:9A-24 et al. (Installment loans--increase allowable interest rate)

LAWS 1981 CHAPTER 153

Bill No. A2123

Sponsor(s) Bornheimer and others

Date Introduced Oct. 6, 1980

Committee: Assembly Banking and Insurance

Senate Labor, Industry and Professions

Amended during passage Yes ~~No~~ Assembly Committee statement (OCR) enacted. Amendments denoted by asterisks

Date of Passage: Assembly Jan. 22, 1981

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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

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ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2123

STATE OF NEW JERSEY

ADOPTED NOVEMBER 24, 1980

AN ACT to amend and supplement "An act concerning Banking and Banking Institutions (Revision of 1948)," approved April 29, 1948 (P. L. 1948, c. 67), and amending P. L. 1969, c. 244, P. L. 1973, c. 328 and P. L. 1979, c. 226.

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

1 1. 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. Every bank and savings
4 bank shall, subject to the provisions of this act, have the following
5 powers, whether or not such powers are specifically set forth in
6 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
12 its real or personal property as security therefor, and to execute
13 and deliver all such instruments as may be necessary to evidence
14 such 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
22 interest therein for the following purposes, and for no others:

23 (a) such as may be necessary or convenient for the use,
24 operation, or housing of its principal office or any branch office,
25 or an auxiliary office, or for the storage of records or other
26 personal property, or for office space for use by its officers or
27 employees, or which may be reasonably necessary for future
28 expansion of its business, or which is otherwise reasonably

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

29 incidental to the conduct of its business; and which may in-
30 clude, in addition to the space required for the transaction of
31 its business, other space which may be let as a source of in-
32 come. In exercising the powers conferred by this subpara-
33 graph, the bank or savings bank shall be subject to the limita-
34 tions imposed by paragraph (13) of this section;

35 (b) such as may be conveyed to it in whole or part satis-
36 faction of debts previously contracted in the course of its
37 dealings;

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

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

43 (e) *such as may be permitted for associations pursuant to*
44 *subsections 4 and 21 of section 48 of the "Savings and Loan*
45 *Act (1963)," P. L. 1963, c. 144 (C. 17:12B-48).*

46 provided, that all real property not held for any purpose specified
47 in subparagraph (a) of this paragraph, shall be sold within 5
48 years of its acquisition, or within 5 years after the time it ceases
49 to be held for any purpose specified in subparagraph (a) of this
50 paragraph, unless the commissioner shall extend the time within
51 which such sale shall be made;

52 (6) To be a member of the Federal Reserve System; to subscribe
53 for, purchase, hold, and surrender such amounts of the capital
54 stock of the Federal Reserve Bank organized within the district
55 within such bank or savings bank is located as may be required or
56 as may be deemed advisable by such bank or savings bank; and
57 to have and exercise all powers, privileges and options which are
58 conferred by law upon such members; to comply with all require-
59 ments of Federal legislation and the rules and regulations lawfully
60 promulgated thereunder governing such membership as such legis-
61 lation and such rules and regulations may provide at the time of
62 inception of such membership, and as the same may from time to
63 time thereafter be amended or supplemented; and to assume and
64 discharge all liabilities and obligations which may be required by
65 reason of such membership;

66 (7) To be a member of Federal Deposit Insurance Corporation,
67 or of any successor corporation having for its purpose the insur-
68 ance of deposits, and to do all things, and assume and discharge
69 all liabilities and obligations imposed upon such members by Fed-
70 eral legislation or by rules and regulations lawfully promulgated

71 pursuant thereto, as the same may provide at the inception of such
 72 membership, or as the same may thereafter be amended or sup-
 73 plemented;

74 (8) To be a member of any Federal agency hereafter created,
 75 membership in which is open to banking institutions, and the pur-
 76 pose of which is to afford advantages or safeguards to banking
 77 institutions, or to their depositors, and to comply with all the re-
 78 quirements and conditions imposed upon such members, except
 79 that the power by this paragraph conferred shall not be exercised
 80 unless the commissioner, with the concurrence of the banking ad-
 81 visory board, shall make a general order authorizing banks or
 82 savings banks, or both, to become and be such members, upon such
 83 terms and conditions as may in such order be prescribed;

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

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

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

92 (c) each purchase of such stock shall first have been autho-
 93 rized by a resolution, stating the number of shares to be pur-
 94 chased and the amount to be paid therefor, adopted by its
 95 board of directors or board of managers, and, in the case of
 96 a bank, approved by a majority in interest of its stockholders
 97 at any annual or special meeting; and

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

100 (10) To subscribe for, purchase and hold stock of not more than
 101 one fiduciary institution organized under any law of this State
 102 hereafter enacted; provided, that

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

104A (b) in the case of a bank, the amount so invested shall not
 104B exceed 20% of its capital stock and surplus; and

105 (c) each purchase of such stock shall first have been autho-
 106 rized by a resolution, stating the number of shares to be pur-
 107 chased and the amount to be paid therefor, adopted by its board
 108 of directors or board of managers, and, in the case of a bank,
 109 approved by a majority in interest of its stockholders at any
 110 annual or special meeting; and

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

113 (11) To contribute to community funds, or to charitable, philan-
114 thropic, or benevolent instrumentalities conducive to public welfare,
115 or civic betterment, or the economic advantage of the community,
116 and to instrumentalities for the protection or advancement of the
117 interests of banking institutions, such sums as its board of directors
118 or board of managers may deem expedient and in the interests of
119 such bank or savings bank;

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

123 (13) To invest in stock of a subsidiary of such bank or savings
124 bank which holds title to real property of the kind in which such
125 bank or savings bank could itself invest pursuant to subparagraph
126 (a) of paragraph (5) of this section, and to make secured or un-
127 secured loans to such subsidiary, without regard to the limitations
128 imposed by Article 13; but no bank or savings bank shall, except
129 with the prior approval of the commissioner (1) invest in real
130 property pursuant to subparagraph (a) of paragraph (5) of this
131 section; or (2) invest in the stock or other securities of such sub-
132 sidiary; or (3) make a loan to such subsidiary, if the aggregate of
133 all such investments and loans, when added to any indebtedness
134 otherwise owing by the subsidiary, will exceed 25% of the capital
135 funds of the bank or savings bank. As used in this paragraph,
136 "subsidiary" of a bank or savings bank means a corporation all of
137 whose capital stock and other securities having voting rights are
138 owned by such bank or savings bank, and whose powers are limited
139 by its certificate of incorporation, to the acquiring, holding, man-
140 aging, selling, leasing, mortgaging, altering, improving and other-
141 wise dealing in and with real property of the kind in which the
142 bank or savings bank could itself invest pursuant to subparagraph
143 (a) of paragraph (5) of this section; and "capital funds" means
144 the aggregate of the capital stock, the principal amount owing on
145 all capital notes, surplus and undivided profits of a bank, and the
146 aggregate of the capital deposits, if any, and the surplus of a sav-
147 ings bank. Every subsidiary of a bank or savings bank shall be
148 subject to examination by the commissioner as provided in the case
149 of banks and savings banks pursuant to sections 260, 261, 262, 263
150 and 335, and the ultra vires or unlawful act of a subsidiary of a
151 bank or savings bank shall be deemed to be the ultra vires or un-
152 lawful act of such bank or savings bank for the purposes of Arti-

153 cle 42. In determining whether to give or withhold approval of an
 154 investment or loan in excess of the limitation imposed by this
 155 paragraph, the commissioner shall consider whether the making
 156 of such loan or investment is consistent with sound banking prac-
 157 tice, having regard to (1) the ratio between the aggregate of such
 158 loans and investments and the capital funds of the bank or savings
 159 bank; (2) the benefits to the bank or savings bank reasonably to
 160 be anticipated from such investment or such loan; (3) the ratio
 161 between such aggregate capital funds and total deposits; and (4)
 162 such other factors as the commissioner shall consider germane to
 163 the protection of deposits. A violation of any provision of this
 164 paragraph by any bank, savings bank, or subsidiary of a bank or
 165 savings bank, shall not impair the validity or sufficiency of any
 166 deed of conveyance, mortgage, or lease made by such bank, savings
 167 bank, or subsidiary, of real property owned by it; nor shall any
 168 other interest in such real property, acquired by or vested in any
 169 person claiming through or under such bank, savings bank, or sub-
 170 sidiary, or to which such person may be entitled, be impaired by
 171 reason of such violation.

1 2. Section 8 of P. L. 1979, c. 226 (C. 17 :9A-24.9) is amended to
 2 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 Banking
 6 Act of 1948, P. L. 1948, c. 67, shall have power (1) to subscribe for,
 7 purchase and hold stock of one or more insurance companies
 8 organized under the laws of this State which have been or may here-
 9 after be limited to insure banks, savings banks and other depository
 10 institutions **[(1)]** (a) against loss from the defaults of persons in
 11 positions of trust, public or private, or against loss or damage on
 12 account of neglect or breaches of duty or obligations guaranteed by
 13 the insurer; and against loss of any bills of exchange, notes, checks,
 14 drafts, acceptances of drafts, bonds, securities, evidences of debt,
 15 deeds, mortgages, documents, gold or silver, bullion, currency,
 16 money, platinum and other precious metals, refined or unrefined and
 17 articles made therefrom, jewelry, watches, necklaces, bracelets,
 18 gems, precious and semiprecious stones, and also against loss
 19 resulting from damage, except by fire, to the insured's premises,
 20 furnishings, fixtures, equipment, safes and vaults therein caused by
 21 burglary, robbery, hold-up, theft or larceny, or attempt thereat. No
 22 such indemnity indemnifying against loss of any property as
 23 specified herein shall indemnify against the loss of any such
 24 property occurring while in the mail or in the custody or possession

25 of a carrier for hire for the purpose of transportation, except for
 26 the purpose of transportation by an armored motor vehicle accom-
 27 panied by one or more armed guards; and

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

36 (2) *To make loans and investments as authorized for associations*
 37 *by, and subject to the limitations of, subsection (J) (2) of section*
 38 *155 of the "Savings and Loan Act (1963)," P. L. 1963, c. 144 (C.*
 39 *17:12B-155).*

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

44 *(4) *To extend credit through the use of credit cards issued by it*
 45 *through an arrangement with participating vendors, and without*
 46 *limitation of the generality of the foregoing, to exercise all the*
 47 *powers permitted to associations pursuant to subsection 18 of*
 48 *section 48 of the "Savings and Loan Act (1963)," P. L. 1963, c. 144*
 49 *(C. 17:12B-48).*

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

1 3. Section 5 of P. L. 1969, c. 244 (C. 17:9A-25.5) is amended to
 2 read as follows:

3 5. A. In addition to the powers which banks may otherwise
 4 exercise, every bank, as defined in the act to which this act is a
 5 supplement, shall have the following powers, whether or not such
 6 powers are specifically set forth in its certificate of incorporation:

7 (1) To disburse to customers' employees, payroll funds deposited
 8 with it by such customers for such purpose, either by direct pay-
 9 ment to such employees on or away from the banking premises, or
 10 by crediting an account standing in an employee's name in such
 11 bank;

12 (2) To provide and receive compensation for travel services
 13 rendered to its customers and others, including the sale of trip in-
 14 surance and the rental of automobiles as agent for a local rental
 15 service;

16 (3) To provide customers with messenger service by means of
 17 armored car or otherwise. In such a case, the messenger shall be
 18 the agent of the customer, and any deposits collected by such agent
 19 shall be deemed not to be received by the bank until delivered at
 20 the bank to an employee authorized to receive deposits;

21 (4) To designate bonded agents to sell money orders of the bank
 22 away from the banking premises;

23 (5) To become the owner and lessor of personal property upon
 24 the request of and for the use of a customer, and to incur such
 25 obligations as may be incidental to such ownership;

26 (6) To purchase open accounts;

27 (7) To extend credit through the use of credit cards issued by it
 28 through an arrangement with participating vendors【:】, and with-
 29 out limitation of the generality of the foregoing, *to exercise* all
 30 the powers permitted to associations pursuant to subsection 18 of
 31 section 48 of the "Savings and Loan Act (1963)," P. L. 1963, c. 144
 31A (C. 17:12B-48).

32 (8) To make any investment authorized for associations by Sec-
 33 tion 165 of the Savings and Loan Act (1963), P. L. 1963, c. 144
 34 (C. 17:12-165), provided, however, that where reference is made to
 35 State associations or Federal associations therein, such reference
 36 for purposes of this act shall be deemed to refer to banking in-
 37 stitutions as defined in section 1 of "The Banking Act of 1948," P. L.
 38 1948, c. 67.

39 【(8)】 (9) To exercise all other powers, not herein specifically
 40 enumerated, which are reasonably related or incidental to the exer-
 41 cise of the foregoing powers.

42 B. The commissioner may, by regulation, prescribe the manner
 43 in which and the extent to which the foregoing powers may be ex-
 44 ercised, and may, by regulation, prescribe other powers, not other-
 45 wise expressly authorized or prohibited, which banks may exercise.
 46 Regulations so made shall be directed toward creating or maintain-
 47 ing substantial equality between State-regulated and Federally-
 48 regulated banks, to the end that no class or group of banks shall
 49 have any substantial competitive advantage over another.

1 4. Section 65 of P. L. 1948, c. 67 (C. 17:9A-65) is amended to
 2 read as follows:

3 65. Real property mortgages. A. No bank shall make a mortgage
 4 loan secured by a mortgage upon real property unless

5 (1) The mortgaged property is located within this State, or, if
6 outside this State, the mortgaged property is located within 50
7 miles of the border of this State; or if the mortgaged property is
8 located outside this State and is more than 50 miles from the border
9 of this State, the payment of the mortgage loan is insured or
10 guaranteed, or is the subject of an unconditional commitment for
11 such insurance or guarantee, to the extent provided for in sub-
12 section A of section 68, by the Federal Housing Commissioner or
13 by the United States, or by this State; *or, the mortgaged property*
14 *is located as permitted for associations pursuant to section 146 of*
15 *the "Savings and Loan Act (1963)," P. L. 1963, c. 144 (C.*
16 *17:12B-146);*

17 (2) The mortgaged property shall consist of improved real
18 property, including farm lands, or unimproved real property if the
19 proceeds of such loan shall be used for the purpose of erecting
20 improvements thereon;

21 (3) The mortgage securing such loan shall constitute a first lien
22 on a fee; a mortgage shall be deemed a first lien notwithstanding
23 the existence of a prior mortgage or mortgages held by the bank,
24 or liens of taxes which are not delinquent, building restrictions
25 or other restrictive covenants or conditions, leases or tenancies
26 whereby rents or profits are reserved to the owner, joint drive-
27 ways, sewer rights, rights in walls, rights-of-way or other ease-
28 ments, or encroachments, which the persons signing the certificate
29 provided for in section 67 report in their opinion do not materially
30 affect the security for the mortgage loan. Every mortgage shall
31 be certified to be such a first lien by an attorney-at-law of the State
32 in which the real property is located, or certified or guaranteed
33 to be such a first lien by a corporation authorized to guarantee
34 titles to land in such State;

35 (4) No such loan shall be made for a period longer than 40 years
36 from its date, and no such loan shall exceed 80% of the appraised
37 value of the mortgaged property; provided, that there shall be
38 included in the appraised value of the mortgaged property, for the
39 purpose of this paragraph (4), the value of the improvements to
40 be erected upon the mortgaged property wholly or partly with the
41 proceeds of such loan; and

42 (5) The instrument evidencing the loan shall require payment
43 to be made during each year on account of the principal amount
44 of the loan at a rate not less than 1% per annum of the original
45 amount of the loan, if the original amount of the loan does not
46 exceed 50% of the appraised value of the mortgaged property;
47 or 2% per annum of the original amount of the loan, if the loan

48 exceeds 50% but does not exceed 66 $\frac{2}{3}$ % of such appraised value;
49 or 4% per annum of the original amount of the loan, if the loan
50 exceeds 66 $\frac{2}{3}$ % of such appraised value; provided, that, in lieu
51 of such principal payments, the instrument evidencing any mort-
52 gage loan may require equal monthly payments, each applicable
53 to principal and interest, in an amount sufficient to pay current
54 interest and to repay the amount of the loan in not more than 40
55 years from its date; and provided further, that when the proceeds
56 of any such loan are to be used to pay, in whole or in part, the
57 cost of constructing a building or buildings on the mortgaged
58 property, and such proceeds are paid by the bank from time to
59 time, final payment being made at or after completion, the instru-
60 ment evidencing such loan need not require that any payment be
61 made on account of the principal amount of the loan during the
62 period from the date of such loan to a date not more than 18 months
63 from the date of such loan; and such date marking the end of the
64 period during which no payments are required to be made on
65 account of the principal amount of the loan, shall be deemed to
66 be the date of such loan for the purpose of reckoning the 40-year
67 period limited for the payment of such loan by this paragraph
68 (5), and by paragraph (4) of this section.

69 B. The commissioner may, from time to time, with the concur-
70 rence of the banking advisory board, make, alter and rescind regu-
71 lations:

72 (1) Authorizing banks to make mortgage loans, or specified
73 types or classes of mortgage loans, (a) which exceed 80% of the
74 appraised value of the mortgaged property; (b) which mature
75 in more than 25 years from their date; (c) which require smaller
76 annual payments on account of the principal amounts thereof
77 than those specified in paragraph (5) of subsection A of this
78 section; **[and]** (d) which provide for equal monthly payments, each
79 applicable to principal and interest, in amounts sufficient to pay
80 current interest on and to repay the amount of the loan in such
81 number of years, more than 40 but not more than 45, as the regu-
82 lation may specify; *or (e) which substantially conform to the terms*
83 *and conditions of mortgage loans authorized to be made by associa-*
84 *tions pursuant to the "Savings and Loan Act (1963)," P. L. 1963, c.*
85 *144 (C. 17:12B-1 et seq.).*

86 (2) Defining "improved real property" for the purposes of para-
87 graph (2) of subsection A of this section;

88 (3) Increasing the percentage of the time deposits or the aggre-
89 gate of the unimpaired capital stock and surplus of banks which
90 banks may invest in mortgage loans beyond the limitation ex-
91 pressed in subsection A of section 69;

92 (4) Increasing the percentage of the principal balances owing
 93 on mortgage loans of the kind referred to in section 68 which
 94 shall not be included in the total of all principal balances owing
 95 on mortgage loans for the purposes of subsection A of section 69,
 96 or eliminating entirely the principal balances owing on such mort-
 97 gage loans from such total of all principal balances.

98 C. In making, altering and rescinding regulations pursuant to
 99 subsection B of this section, the commissioner and the banking
 100 advisory board shall consider the statutes and regulations applica-
 101 ble to national banks in the making or acquiring of loans secured
 102 by interest in real property and the practices followed by national
 103 banks in the making or acquiring of such loans. The regulations
 104 so made shall, so far as the commissioner and the banking advisory
 105 board deem to be warranted by the state of the economy and to
 106 be consistent with sound banking practices, be directed toward the
 107 creation and maintenance of a substantial parity between banks
 108 and national banks in all matters relating to the making and ac-
 109 quiring of loans secured by interests in real property. The power
 110 to regulate as provided in subsection B of this section may be
 111 exercised by the commissioner and the banking advisory board
 112 within the standards established by this subsection, notwithstand-
 113 ing that the subject of such regulation is not expressly set forth in
 114 subsection B of this section.

1 5. Section 2 of P. L. 1973, c. 328 (C. 17:9A-65.1) is amended to
 2 read as follows:

3 2. A. Notwithstanding any other law or regulation to the con-
 4 trary, with respect to the provisions of section 147 of P. L. 1963, c.
 5 144 (C. 17:12B-147) and section 65 of P. L. 1948, c. 67 (C. 17:9A-
 6 65), any banking institution or savings and loan association may,
 7 at the option of such banking institution or savings and loan asso-
 8 ciation, collect only interest as required periodic payments during
 9 the first 5 years of a mortgage loan.

10 B. *Any banking institution may compute interest on any mort-*
 11 *gage loan as permitted for a association pursuant to section 48*
 12 *(14) of the "Savings and Loan Act (1963)" P. L. 1963, c. 144*
 13 *(C. 17:12B-48).*

14 C. *Any banking institution may collect interest on any mortgage*
 15 *loan as permitted for a association pursuant to section 48 (11) of*
 16 *the "Savings and Loan Act (1963)" P. L. 1963, c. 144 (C. 17:*
 17 *12B-48).*

1 6. Section 66 of P. L. 1948, c. 67 (C. 17:9A-66) is amended to
 2 read as follows:

3 6. Section 66 of P. L. 1948, c. 67 (C. 17:9A-66) is amended to
 4 read as follows:

5 6. Section 66 of P. L. 1948, c. 67 (C. 17:9A-66) is amended to

3 66. Leasehold mortgages. No bank shall make a mortgage loan
4 secured by a mortgage upon a lease of the fee of real property
5 unless

6 (1) the leased property is located within this State or, if outside
7 this State, the leased property is located within fifty miles of the
8 border of this State;

9 (2) the leased property shall consist of improved real property,
10 including farm lands, or unimproved real property if the proceeds
11 of such loan shall be used for the purpose of erecting improvements
12 thereon;

13 (3) the mortgage securing such loan shall constitute a first lien
14 on a lease of the fee of real property, which fee is not subject to
15 any prior lien; the fee shall be deemed not subject to any prior
16 lien notwithstanding the existence of liens of taxes which are not
17 delinquent, building restrictions or other restrictive covenants or
18 conditions, joint driveways, sewer rights, rights in walls, rights
19 of way or other easements, or encroachments, which the persons
20 signing the certificate provided for in section 67 report in their
21 opinion do not materially affect the security for the mortgage loan.
22 Every mortgage shall be certified to be such a first lien by an
23 attorney-at-law of the state in which the real property is located,
24 or certified or guaranteed to be such a first lien by a corporation
25 authorized to guarantee titles to land in such state;

26 (4) such loan shall not exceed 66 $\frac{2}{3}$ % of the appraised value of
27 the leasehold interest subject to the mortgage, including the lease-
28 hold interest in the improvements erected upon the mortgaged
29 property or to be erected thereon wholly or partly with the pro-
30 ceeds of the mortgaged loan; and

31 (5) the instrument evidencing the loan shall require that pay-
32 ment be made on account of the principal amount of such loan at
33 an annual rate sufficient to repay such loan not later than one year
34 prior to expiration of the lease~~["."]; or~~

35 (6) *notwithstanding the foregoing, the terms of the loan are*
36 *authorized for an association pursuant to *["subsection"]* *sub-*
37 *sections* C and D of section 155 of the "Savings and Loan Act*
38 *(1963)", P. L. 1963, c. 144 (C. 17:12B-155).*

1 7. *["Section 7 of P. L. 1948, c. 67 (C. 17:9A-7) is amended to read
2 as follows:

3 7. Incorporation; certificate of incorporation. Nine or more
4 persons, of full age, may incorporate a savings bank on the terms
5 and provisions prescribed by this act. Such persons shall execute
6 and acknowledge a certificate of incorporation 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) *and* (11) of section
22 28; and
- 23 (8) such other provisions, not inconsistent with this act, as the
24 incorporators may choose to insert for the regulation of the busi-
25 ness and affairs of the savings bank.]* *Section 181 of P. L. 1948,
26 c. 67 (C. 17:9A-181) is amended to read as follows:
- 27 Sec. 181. Mortgage loans.
- 28 A. 1. A savings **[banks]** *bank* may make or invest in mortgage
29 loans in the manner and subject to the limitations prescribed by
30 this section. For the purposes of this section, "mortgage loan"
31 shall include every indebtedness secured by mortgage on real
32 property, or on a lease of the fee of real property (in any case in
33 which such lease is lawful security for such mortgage loan), except
34 as otherwise provided by subsection Q. of this section, and a savings
35 bank shall be deemed to have made a mortgage loan when
- 36 (a) It lends or participates in lending money to a borrower upon
37 the security of real property; or
- 38 (b) It acquires, by purchase or otherwise, a mortgage loan or
39 any share or part of or interest in a mortgage loan which is not
40 subordinate to any share or part thereof or interest therein held
41 by any other person.
- 42 A savings bank may sell, assign or otherwise dispose of a share
43 or part of or interest in a mortgage loan held by it to any other
44 person.
- 45 A. 2. For all purposes of compliance with the applicable provi-
46 sions and restrictions of subsection D.**[, F.]** and G. of this section
47 as to the percentage of the mortgage loan to the appraised value
48 of the mortgaged property, and the term of and rate of amortiza-
49 tion of such loan, the date of the acquisition by a savings bank of

50 a mortgage loan or a share or part thereof or interest therein
51 shall, as respects such savings bank, be deemed to be the date as
52 of which the mortgage loan was made and the unpaid amount of
53 the principal then due shall be deemed to be the amount of such
54 mortgage loan.

55 B. No savings bank shall make a mortgage loan at any time when
56 the total cost of acquisition by the savings bank of all real property
57 owned by it, other than real property held for the purposes specified
58 in subparagraph (a) of paragraph (5) of section 24, and the total
59 of all principal balances owing to the savings bank on mortgage
60 loans, less all write-offs and reserves with respect to such real
61 property and mortgage loans, together exceeds, or by the making
62 of such loan will exceed, 80% of its deposits. For the purposes **[,]** of
63 this subsection, principal balances owing on mortgage loans made
64 pursuant to subsection Q. (1) of this section shall, only to the
65 extent of the unguaranteed portion of such balances, and loans
66 made pursuant to subsection Q. (2) of this section shall, only to
67 the extent of 50% of such balances, be included in the total of all
68 principal balances owing to the savings bank on mortgage loans;
69 and for the purposes of this subsection, principal balances owing
70 on mortgage loans made by the use of funds received by the bank
71 pursuant to the provisions of the "New Jersey Mortgage Finance
72 Agency Law" (P. L. 1970, c. 38, C. 17:1B-4 et seq.), shall, only
73 to the extent of 50% of such balances, be included in the total of
74 all principal balances, owing to the savings bank on mortgage loans.

75 C. Every mortgage loan shall be evidenced by a note or bond, and
76 shall be secured by a mortgage on the fee of real property located
77 within this State, or, if outside this State, upon the fee of real
78 property located within 50 miles of the border of this State; *or*
79 *located as permitted for associations pursuant to section 146 of the*
80 *"Savings and Loan Act (1963)," P. L. 1963, c. 144 (C. 17:12B-146).*
81 Every mortgage shall be certified to be a first lien by an attorney
82 at law of the State in which the real property is located, or certified
83 or guaranteed to be a first lien by a corporation authorized to
84 guarantee titles to land in such State. For the purposes of this
85 section, a mortgage shall be deemed to be a first lien, notwith-
86 standing the existence of a prior mortgage or mortgages held by
87 the savings bank, or a lien for current taxes or assessments not
88 due or payable at the time the loan is made, and notwithstanding
89 the existence of leases, building restrictions, easements, encroach-
90 ments, or covenants which, in the opinion of an officer of the savings
91 bank designated for that purpose by the board of managers, do
92 not materially lessen the value of the real property to be mortgaged.

93 D. When the real property offered as security for a mortgage
94 loan consists of a lot of land, or, in the case of condominiums, an
95 interest in a lot of land, upon which there is one or more one-, two-,
96 three-, or four-family dwellings including appropriate garages or
97 other outbuildings, if any, or upon which such dwelling or dwellings,
98 garages or outbuildings are in the course of construction or are to
99 be constructed, the amount of the mortgage loan shall not exceed
100 90% of the appraised value of the real property; provided,
101 however, where mortgage guaranty insurance is issued incident to
102 such loan pursuant to the provisions of the Mortgage Guaranty
103 Insurance Act, P. L. 1968, c. 248 (C. 17:46A-1 et seq.), the amount
104 of the mortgage loan shall not exceed 95% of the appraised value
105 of the real property.

106 E. (Deleted by amendment.)

107 F. **■**The instrument evidencing a mortgage loan made pursuant
108 to subsection D. of this section shall require that

109 (1) Interest shall be paid on such loan monthly, and that equal
110 monthly payments be made in reduction of such loan of an annual
111 rate equal to at least 2½% of the original amount of such loan; or

112 (2) That a constant sum be paid monthly in an amount sufficient
113 for current interest and for the payment of the loan in full in not
114 more than 40 years and 1 month from the making of such loan. **■**

115 *(Deleted by amendment.)*

116 G. When the real property offered as security for a mortgage
117 loan consists of a lot of land upon which there is a building or
118 buildings other than dwellings of the nature described in subsec-
119 tion D. of this section, or upon which such other buildings are in
120 the course of construction, or are to be constructed, or when such
121 land is paved for parking lot purposes, the amount of the mort-
122 gage loan shall not exceed 80% of appraised value of such real
123 property. The instrument evidencing a mortgage loan made pur-
124 suant to this subsection shall require that the loan be repaid in
125 full in not more than 30 years and 1 month from the date it is
126 made; and (a) if the amount of such loan, when made, exceeds
127 50%, of the appraised value of the real property, that payment
128 shall be made in reduction thereof at least semiannually, at an
129 annual rate equal to at least 1% of the original amount of such
130 loan; or (b) if the amount of such loan, when made, does not
131 exceed 50% of the appraised value of the real property, that
132 payments shall be made in reduction thereof at least semiannually,
133 at an annual rate equal to at least ½% of the original amount of
134 such loan; provided, that, in lieu of such principal payments, the
135 instrument evidencing any mortgage loan may require equal

136 monthly payments each applicable to principal and interest in an
137 amount sufficient to pay current interest and to repay the amount
138 of the loan in not more than 30 years and 1 month from its date.
139 When, however, the amount of such loan does not, when made,
140 exceed 50% of the appraised value of such real property, and the
141 instrument evidencing such loan requires that it be paid in full
142 in not more than 5 years and 1 month from the date it is made, the
143 instrument need not require that any payment be made in reduc-
144 tion of such loan prior to its maturity date. Notwithstanding the
145 limitations prescribed by subsection D. and hereinabove in this
146 section, a savings bank may make a mortgage loan secured by a
147 lot of land or two or more lots of land, contiguous or not, upon each
148 of which there is a building or buildings, or upon each of which a
149 building or buildings are in the course of construction or are to be
150 constructed. The limitations of this section governing the term of
151 the loan, rate of amortization, and the percentage of the mortgage
152 loan to the appraised value of each type of building, including
153 land, shall apply. No loans shall be made under subsections D. **[**
154 F., **]** or G. hereof to any one person or on any one property if the
155 loans shall exceed 15% of the surplus, undivided profits, and
156 reserves of the savings bank, or \$50,000.00, whichever is greater.

157 H. When the real property offered as security for a mortgage
158 loan is of the nature described in subsection D. of this section, and
159 the amount of the loan does not exceed 66 $\frac{2}{3}$ % of the appraised
160 value of such real property, the instrument evidencing such loan
161 shall be sufficient if it conforms to the requirements of **[**either sub-
162 section F. or **]** subsection G. of this section.

163 I. A mortgage loan may be made for the purpose of enabling a
164 borrower to construct a building or buildings upon real property
165 owned by him, and, in such a case, the appraised value of the real
166 property shall include the value of the building or buildings to be
167 constructed, but at no time shall a greater sum be advanced on
168 account of such loan than, in the opinion of (1) the appraisers
169 hereinafter provided for, or (2) one of such appraisers and an
170 officer of the savings bank designated for that purpose by the board
171 of managers, is warranted by the state of completion of the build-
172 ings in process of construction. For the purposes of compliance
173 with the applicable requirements of subsection **[**F. or **]** G. of this
174 section as to the term of and the rate of amortization of a loan made
175 pursuant to this section, such loan shall be deemed to have been
176 made when the final advance shall be made to the borrower on such
177 loan, or 60 months from the date of the mortgage securing such
178 loan, whichever is earlier.

179 J. When the real property offered as security for a mortgage
180 loan consists of unimproved land, and the proceeds of such loan are
181 not to be used to construct a building on such land, the amount of
182 such loan shall not exceed 50% of the appraised value of such
183 real property. When the real property offered as security for a
184 mortgage loan consists of unimproved land, and the proceeds of
185 such loan are to be used for improvements to the land, the amount
186 of such loan shall not exceed 75% of the appraised value of such
187 real property. The instrument evidencing a loan made pursuant to
188 this subsection shall require that such loan be paid in full in not
189 more than 10 years and 1 month from the date it is made. No
190 loan made pursuant to this subsection shall exceed \$10,000.00, or
191 $\frac{3}{10}$ of 1% of the deposits of the savings bank, whichever is greater;
192 nor shall any loan be made at any time when the total of all such
193 loans exceeds, or if the making of such loan would cause such total
194 to exceed 2% of the deposits of the savings bank.

195 K. No mortgage loan shall be made except upon a written certifi-
196 cation signed by at least two persons, each of whom shall be
197 either a manager of the bank or an appraiser appointed by its
198 board of managers. In the case of a mortgage loan secured by a
199 mortgage upon real property, such certification shall state the
200 opinion of such persons as to the value of the land and the improve-
201 ments thereon or to be erected thereon and the character of such
202 improvements. In the case of a mortgage loan secured by a mort-
203 gage upon a lease of the fee of real property, such certification
204 shall state the opinion of such person as to the value of the lease-
205 hold interest to be subject to the mortgage, including the leasehold
206 interest in the improvements erected or to be erected upon the
207 leased property and the character of such improvements. Such
208 certification shall be filed with the records of the bank, and shall
209 be preserved until the savings bank has no interest, as mortgagee
210 or otherwise, in the real property.

211 L. Purchase money mortgage loans made by a savings bank on
212 the sale of real property owned by it shall not be subject to the
213 preceding subsections or to subsection P. of this section, except that
214 such loans shall be included in determining whether the total
215 amount of mortgage loans held by a savings bank exceeds 80% of
216 its deposits.

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

219 (1) The leased property is located within this State or, if out-
220 side this State, the leased property is located within 50 miles of
221 the border of this State;

222 (2) The leased property shall consist of improved real property,
 223 including farm lands, or unimproved real property if the proceeds
 224 of such loan shall be used for the purpose of erecting improve-
 225 ments thereon;

226 (3) The mortgage securing such loan shall constitute a first lien
 227 on a lease of the fee of real property, which fee is not subject to
 228 any prior lien; the fee shall be deemed not subject to any prior
 229 lien notwithstanding the existence of liens of taxes which are not
 230 delinquent, building restrictions or other restrictive covenants or
 231 conditions, joint driveways, sewer rights, rights in walls, rights-of-
 232 way or other easements, or encroachments, which the person sign-
 233 ing the certificate provided for in subsection K. of this section
 234 report in their opinion do not materially affect the security for the
 235 mortgage loan. Every mortgage shall be certified to be such a
 236 first lien by an attorney-at-law of the state in which the real prop-
 237 erty is located, or certified or guaranteed to be such a first lien by
 238 a corporation authorized to guarantee titles to land in such state;

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

244 (5) The instrument evidencing the loan shall require that pay-
 245 ment be made on account of the principal amount of such loan at
 246 an annual rate sufficient to repay such loan not later than 1 year
 247 prior to the expiration of the lease.

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

252 N. The instrument evidencing a mortgage loan may be in such
 253 form, and may contain such provisions, not inconsistent with law,
 254 as the savings bank may choose to insert for the protection of its
 255 lien and the preservation of its interest in the real property
 256 mortgaged to it.

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

259 (1) For the purposes of preventing or mitigating loss, or of
 260 preserving the lien of its mortgage, or of conserving the value of
 261 the real property affected by its mortgage, (a) extend the time for
 262 the payment of principal or interest, (b) modify or waive any of
 263 the terms or conditions of the instrument evidencing a mortgage

264 loan, (c) settle or compromise all or part of the amount due or to
265 grow due on a mortgage loan, (d) sell or assign the mortgage loan,
266 or a share or part thereof or interest therein, for such considera-
267 tion as it shall deem proper, and (e) advance funds for the payment
268 of any tax, lien, charge or claim whatsoever; and

269 (2) Make a loan in addition to an existing mortgage loan or loans
270 held by it, upon the security of the same real property and secured
271 by the existing mortgage or mortgages, in an amount not to exceed
272 the difference between the balance due on the existing mortgage or
273 mortgages and the original amount thereof; provided, however,
274 that no such additional loan shall be made which shall increase the
275 total amount due upon such mortgages over the amount which could
276 be loaned upon the security of such real property. Such additional
277 loan shall be repaid in equal monthly installments, beginning within
278 1 year from the date of such loan, with the payments adjusted so
279 that the additional loan shall be repaid in full either before or at
280 the maturity of the existing mortgage. If the unexpired term of
281 such mortgage or mortgages shall have been reduced to 15 years
282 or less, such term may be extended for an additional period of not
283 more than 15 years. Adjustment of payments and extension of
284 mortgage terms pursuant to this section shall comply with the
285 provisions of [subsection F.,] subsections G. or H. of this section.
286 If so provided in the original mortgage or a supplement or amend-
287 ment thereto, persons who acquire any rights in or liens upon the
288 mortgaged real property subsequent to the recording of the
289 original mortgage or such supplement or amendment, as the case
290 may be, shall hold such rights and liens subject to the prior lien
291 of the original mortgage and such supplement or amendment, if
292 any, as security for such additional loan; and in such case, no title
293 certificate or insurance under subsection C. of this section shall be
294 required with respect to such additional loan.

295 P. Except as otherwise provided by this section, no savings bank
296 shall make a mortgage loan if the making of such loan would cause
297 the total of all unpaid balances of such loans held by the savings
298 bank upon the security of the same real property or leasehold, to
299 exceed the limitations imposed by this section upon the amount of a
300 mortgage loan which may be made upon the security of such real
301 property of such leasehold.

302 Q. A savings bank may invest in

303 (1) (a) Veterans loans, wherever located, made pursuant to Title
304 III of the Act of Congress of June 22, 1944, known as the "Service-
305 men's Readjustment Act of 1944," as amended, supplemented,

306 revised, or recodified from time to time, which the Administrator
307 of Veterans' Affairs or other officer or agency which succeeds to
308 his powers and functions under said act has insured or guaranteed
309 or has made a commitment to insure or guarantee, to the extent
310 and in the manner provided in said act or the regulations made
311 thereunder; and

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

317 (c) Mortgages or deeds of trust or other securities made pur-
318 suant to paragraph 1 (a) of this subsection of this section shall
319 not be subject to the provisions and restrictions of this section,
320 except that they shall be included in determining whether total
321 mortgage investments are within the limitation prescribed by
322 subsection B. of this section, provided however, that said mort-
323 gages or deeds of trust or other securities shall not be subject to
324 the provisions of any law of this State prescribing or limiting the
325 interest which may be taken upon such loans or investments.

326 (2) (a) Mortgages or deeds of trust or other securities of the
327 character of mortgages which are first liens on the fee of real
328 property or a lease of the fee of real property, wherever located,
329 which (i) the United States, or (ii) the Federal Housing Commis-
330 sioner under the Act of Congress of June 27, 1934, known as the
331 "National Housing Act," as amended, supplemented, revised or
332 recodified from time to time, or other officer or agency which
333 succeeds to his powers and functions, or (iii) the State of New
334 Jersey or an officer or agency thereof, or (iv) any other officer or
335 agency of the United States or of this State which the commis-
336 sioner shall have approved for the purposes of this section as an
337 insurer or guarantor, has fully insured or guaranteed or made a
338 commitment to fully insure or guarantee.

339 (b) Mortgages or deeds of trust or other securities made pur-
340 suant to paragraph 2 (a) of this subsection of this section shall not
341 be subject to the provisions and restrictions of this section, except
342 that they shall be included in determining whether total mortgage
343 investments are within the limitation prescribed by subsection B. of
344 this section, provided however, that said mortgages or deeds of
345 trust or other securities shall not be subject to the provisions of
346 any law of this State prescribing or limiting the interest which may
347 be taken upon such loans or investments.

348 R. The commissioner may, from time to time, make, alter and
349 rescind regulations:

350 (1) Authorizing savings banks to make mortgage loans or speci-
351 fied types or classes of mortgage loans (a) which exceed the
352 specified percentages of the appraised value of the mortgaged
353 property; (b) which mature later than the specified periods from
354 their date; (c) which require smaller annual payments on account
355 of the principal amounts thereof than those specified in this section;
356 (d) which provide for equal monthly payments each applicable to
357 principal and interest in amounts sufficient to pay current interest
358 on and to repay the amount of the loan in such number of years
359 more than 40, but not more than 45, as the regulation may specify;
360 or (e) which substantially conform to the terms and conditions of
361 mortgage loans authorized to be made by associations pursuant to
362 the "*Savings and Loan Act (1963)*," P. L. 1963, c. 144
363 (C. 17:12B-1 et seq.);

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

366 (3) Increasing the percentage of principal balances owing on
367 mortgage loans referred to in subsection Q. which shall not be in-
368 cluded in the total of all principal balances owing on mortgage
369 loans for the purpose of subsection B., or

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

372 S. Notwithstanding the provisions of this section, a savings bank
373 may make a mortgage loan in excess of the ratio between appraised
374 value and the amount of the loan as such ratio is established herein,
375 provided that such excess is secured by other collateral having a
376 value at all times at least equal to the amount of the principal
377 balance in excess of the amount permitted by subsections G., H., J.,
378 or M., of this section or as established by regulation of the Commis-
379 sioner of Banking.*

1 8. Section 28 of P. L. 1948, c. 67 (C. 17:9A-28) is amended to
2 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
5 addition to the powers specified in sections 24 and 25, whether or
6 not such agency and fiduciary powers are specifically set forth in
7 its certificate of incorporation, and a savings bank which is a
8 qualified 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
11 powers of a fiduciary:

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

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

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

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

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

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

38 (7) to be *~~apointed~~* *appointed** and to act as assignee or
39 trustee for the benefit of creditors under any statute providing for
40 such assignment or otherwise ;

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

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

46 (10) to accept, administer, and execute all other trusts and to act
47 in all other fiduciary capacities not herein specifically enumerated,
47A not inconsistent with law.

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

1 9. (New section) The commissioner shall have the power to make,
2 amend, and repeal regulations permitting banks to exercise any

3 power, right, benefit, or privilege permitted to national banks,
4 provided that such power, right, benefit, or privilege is not contrary
5 to law. Such regulations shall be in substantial conformity with
6 similar rules or regulations of the Comptroller of the Currency,
7 the Federal Reserve Board, and the Federal Deposit Insurance
8 Corporation.

1 10*.* (New section) The commissioner shall have the power to
2 make, amend, and repeal regulations permitting savings banks to
3 exercise any power, right, benefit, or privilege permitted to feder-
4 ally chartered savings banks, provided that such power, rights,
5 benefit or privilege is not contrary to law. Such regulations shall
6 be in substantial conformity with similar rules or regulations
7 of the Federal Deposit Insurance Corporation, the Federal Home
8 Loan Bank Board, or the Federal Savings and Loan Insurance
9 Corporation.

1 11. This act shall take effect immediately.

ASSEMBLY, No. 2123

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 "An act concerning Banking and Banking
Institutions (Revision of 1948)," approved April 29, 1948 (P. L.
1948, c. 67).

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

1 1. Section 53 of P. L. 1948, c. 67 (C. 17:9A-53) is amended to
2 read as follows:

3 53. Scope of article; definitions; interest.

4 A. In addition to such other loans which banks are authorized
5 to make, a bank may make secured and unsecured installment
6 loans upon the terms and conditions prescribed by this article,
7 but this article shall not be construed as prescribing an exclusive
8 method for making of loans which are payable in installments.

9 B. As used in this article:

10 (1) "bank" means a banking institution as defined in section 1
11 (C. 17:9A-1) of this act;

12 (2) "installment loan" means a loan (1) which is required by its
13 terms to be repaid in two or more installments; (2) upon which
14 interest is contracted for at a rate in excess of that authorized
15 pursuant to R. S. 31:1-1; (3) the amount of which does not exceed
16 \$10,000.00; and (4) the final installment of which is payable not
17 more than 7 years and 3 months subsequent to the date upon which
18 such loan is made. The terms "installment loan" and "installment
19 loans" as used in this article include both precomputed and non-
20 precomputed installment loans unless otherwise expressly stated;

21 (3) (Deleted by amendment.)

22 (4) (Deleted by amendment.)

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

23 (5) "person" means an individual, a partnership and an
24 association;

25 (6) (Deleted by amendment.)

26 (7) (Deleted by amendment.)

27 (8) (Deleted by amendment.)

28 (9) "actuarial method" means the method of applying payments
29 made on a loan between principal and interest pursuant to which
30 a payment is applied first to accumulated interest on the principal
31 amount of the loan and the remainder is applied to the unpaid
32 principal balance of the loan in reduction thereof;

33 (10) "precomputed interest" means an amount equal to the
34 whole amount of interest payable on an installment loan for the
35 period from the making of the loan to the date scheduled by the
36 terms of the loan for the payment of the final installment;

37 (11) "precomputed loan" means an installment loan which is
38 evidenced by a note the face amount of which consists of the aggre-
39 gate of the principal amount of the loan so evidenced, and the
40 precomputed interest thereon;

41 (12) "nonprecomputed loan" means an installment loan which
42 is evidenced by a note the face amount of which consists solely of
43 the principal amount of the loan so evidenced;

44 (13) "unpaid balance" of an installment loan means the aggre-
45 gate of the following;

46 (i) the face amount of the note evidencing such loan;

47 (ii) all amounts paid by the bank and added to such loan
48 as provided in paragraph (2) of subsection A of section 55;

49 (iii) all interest accrued and unpaid;

50 (iv) such further charges as the bank may make pursuant
51 to law in protecting or enforcing a security interest in any
52 property securing the payment of such loan or otherwise;

53 (v) in the case of precomputed loans, the amount of all late
54 charges imposed pursuant to section 55;

55 less the aggregate of the following:

56 (vi) all installment payments made in the case of a pre-
57 computed loan, or all payments made in reduction of principal
58 in the case of a nonprecomputed loan;

59 (vii) all payments made on account of or in payment in full
60 of any charges or amounts referred to in subparagraphs (ii),
61 (iii), (iv) and (v) of this paragraph (13); and

62 (viii) in the case of a precomputed loan, the amount of the
63 credit to which the borrower is entitled pursuant to section 56;

64 (14) "Class I installment loan" means an installment loan
65 which is unsecured, and also means an installment loan which is
66 secured by an interest in tangible personal property;

67 (15) "Class II installment loan" means an installment loan
68 which is secured by an interest in real property.

69 C. A bank may contract for and receive interest on installment
70 loans calculated according to the actuarial method, at a rate not
71 exceeding ~~12%~~ 18% per annum on the unpaid balances of the
72 principal, except that the commissioner may, with the advice of
73 the special advisory board created pursuant to P. L. 1970, c. 205,
74 section 11 (C. 17:11A-44) by regulation adopted, amended and
75 rescinded from time to time, provide that the rate of interest
76 which may be contracted for and received on ~~Class I~~ install-
77 ment loans may be more than ~~12%~~ 18% per annum but not
78 more than ~~15%~~ 24% per annum as shall be established by such
79 regulation. For the purpose of establishing rates as provided by
80 this subsection, the commissioner may, with the advice of the
81 special advisory board referred to above, classify installment loans
82 into two categories, one of which shall consist of Class I install-
83 ment loans and the other of which shall consist of Class II install-
84 ment loans. In adopting, amending, and rescinding regulations
85 pursuant to this subsection, the commissioner and the special
86 advisory board shall consider the general state of the economy,
87 the discount rates prescribed by the Federal Reserve Bank of
88 New York and the Federal Reserve Bank of Philadelphia, the
89 advance rate as prescribed by the Federal Home Loan Bank of
90 New York, the availability of funds for loans, studies and statistics
91 published by the Federal Home Loan Bank Board and other agen-
92 cies of the United States and this State, and such other factors and
93 bases for determination as the commissioner and the board may
94 deem pertinent. The rate established by any such regulation shall
95 reasonably reflect prevailing market conditions, regionally and
96 nationally, based upon the studies, statistics and factors considered,
97 and shall remain in force until such time as such regulation is
98 rescinded or such rate is increased or decreased by a subsequent
99 regulation. Any such regulation shall have prospective effect only.
100 This subsection shall not limit or restrict the manner of contract-
101 ing for the interest charge, whether by way of add-on, discount
102 or otherwise, so long as the interest rate does not exceed that
103 permitted by this subsection. In the case of a precomputed loan,
104 the interest may be computed on the assumption that all scheduled
105 payments will be made when due, and all scheduled installment

106 payments made on a precomputed loan may be applied as if they
107 were received on their scheduled due dates. In the case of non-
108 precomputed loans, all installment payments shall be applied no
109 later than the next day, other than a public holiday, after the
110 date of receipt, and a day shall be counted as one-three hundred-
111 sixty-fifth of a year.

112 D. (Deleted by amendment.)

113 E. (Deleted by amendment.)

114 F. (Deleted by amendment.)

115 G. The commissioner may prepare and distribute to such banks
116 as shall make a request therefor, a schedule or schedules to be
117 used in ascertaining precomputed interest, or he may approve a
118 subsisting schedule or schedules, and interest taken pursuant to
119 such schedule or schedules shall constitute a complete compliance
120 with this section. A copy of such schedule or schedules, certified
121 by the commissioner, shall be evidence in all courts and places.

1 2. This act shall take effect immediately.

STATEMENT

The purpose of the proposed amendment to Section 53 of the Banking Act (C. 17:9A-1 et seq.) is to increase the permissible interest rate on installment loans and to give the Commissioner of Banking limited discretion in the establishment of such interest rates for Class I installment loans, similar to the current statutory discretion given with respect to Class II installment loans.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 2123

STATE OF NEW JERSEY

DATED: NOVEMBER 24, 1980

The Assembly Committee Substitute for Assembly Bill No. 2123 is part of a package of bills released by the Banking and Insurance Committee in response to recent changes made in Federal law governing financial institutions. This legislation gives commercial banks parity with savings and loan associations with respect to the making of certain loans, and with respect to certain trust powers and extends certain privileges not now given to banks by the Banking Act of 1948. In addition, it provides authority to the Commissioner of Banking to provide parity between state and Federally chartered banks and savings banks by regulation.

As originally drafted, Assembly Bill No. 2123 is similar in intent to Assembly Bill No. 1377; both raise the permissible interest rate on installment loans made by banks pursuant to the provisions of Article 12 of the Banking Act of 1948. Accordingly, the Assembly Banking and Insurance Committee has substituted another bill which would provide certain parity between banks and savings and loan associations.

The proposed substitute would permit banks to take an advance payment of interest under certain circumstances, which is a privilege accorded to savings and loan associations. The bill would permit banks to use the capitalization method of maintaining escrow accounts and applying interest payments, and would extend to banks any trust powers which are extended to savings and loan associations.

In addition, banks would be permitted to make secured or unsecured loans for personal, family, or household purposes upon the same terms, and subject to the same limitations as, savings and loan associations. Similarly, banks would be permitted to make home improvement loans, including loans for equipping, on the same terms as savings and loan associations. At present, the effect of this would be to give banks a longer term and the authority to lend a higher amount than they are presently permitted by the provisions of the Banking Act of 1948. The bill would permit banks to make mortgage loans upon the same terms

and conditions as savings and loan associations, and would eliminate restrictions now imposed upon banks with respect to making conventional mortgages out of state.

The Assembly Banking and Insurance Committee released the substitute for Assembly Bill No. 2123 in conjunction with Assembly Bill No. 2118, which expands the lending powers and other powers of savings and loan associations, extending to associations certain powers which had hitherto been exercised only by commercial banks. Assembly Bill No. 2123 is directed toward extending to commercial banks certain privileges hitherto enjoyed only by savings and loan associations.

While recognizing the necessity of preserving the traditional role of the Legislature in establishing policy for state-chartered financial institutions, the Banking and Insurance Committee has added an amendment to the legislation which would permit the Commissioner of Banking to promulgate rules and regulations to provide parity for state chartered banks and savings banks in circumstances where additional powers granted to Federally-chartered institutions are not contrary to, or in conflict with, New Jersey statutory law.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 2123

STATE OF NEW JERSEY

DATED: JANUARY 26, 1981

The Assembly Committee Substitute for Assembly Bill 2123 is part of a package of bills released by the Banking and Insurance Committee in response to recent changes made in Federal law governing financial institutions. This legislation gives commercial banks parity with savings and loan associations with respect to the making of certain loans, and with respect to certain trust powers and extends certain privileges not now given to banks by the Banking Act of 1948. In addition, it provides authority to the Commissioner of Banking to provide parity between State and Federally chartered banks and savings banks by regulation.

This legislation permits banks to take an advance payment of interest under certain circumstances, which is a privilege accorded to savings and loan associations. The bill would permit banks to use the capitalization method of maintaining mortgage escrow accounts and applying interest payments, and would extend to banks any trust powers which are extended to savings and loan associations.

In addition, banks would be permitted to make secured or unsecured loans for personal, family, or household purposes upon the same terms, and subject to the same limitations as, savings and loan associations. Similarly, banks would be permitted to make home improvement loans, including loans for equipping, on the same terms as savings and loan associations. At present, the effect of this would be to give banks a longer term and the authority to lend a higher amount than they are presently permitted by the provisions of the Banking Act of 1948. The bill would permit banks to make mortgage loans upon the same terms and conditions as savings and loan associations, and would eliminate restrictions now imposed upon banks with respect to making conventional mortgages out of state.

The Assembly Banking and Insurance Committee released the substitute for Assembly Bill 2123 in conjunction with Assembly Bill 2118, which expands the lending powers and other powers of savings and loan associations, extending to associations certain powers which had hitherto been exercised only by commercial banks. Assembly Bill 2123

is directed toward extending to commercial banks certain privileges hitherto enjoyed only by savings and loan associations.

While recognizing the necessity of preserving the traditional role of the Legislature in establishing policy for State-chartered financial institutions, the Banking and Insurance Committee has added an amendment to the legislation which would permit the Commissioner of Banking to promulgate rules and regulations to provide parity for State chartered banks and savings banks in circumstances where additional powers granted to Federally-chartered institutions are not contrary to, or in conflict with, New Jersey statutory law.

This bill was amended on the Assembly floor to permit banks and savings banks to extend credit through the use of credit cards; to exercise all powers permitted to savings and loan associations pursuant to section 18 of the "Savings and Loan Act (1963)" (C. 17:12B-48); and to make any investments authorized for savings and loan associations by Section 165 of the Savings and Loan Act (C. 17:12-165).
