

17:46A-2, 17:46A-4

LEGISLATIVE HISTORY CHECKLIST

(Mortgage Guaranty Insurance Act - broadens guaranty coverage)

NJSA 17:46A-2, 17:46A-4

LAWS 1981

CHAPTER 567

Bill No. A2063

Sponsor(s) Bornheimer and others

Date Introduced Sept. 29, 1980

Committee: Assembly Banking and 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 Nov. 16, 1981

Date of approval Jan. 18, 1982

Following statements are attached if available:

Sponsor statement	Yes	No (Below)
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

Sponsors' statement:

This bill is intended to amend the Mortgage Guaranty Insurance Act to permit the guaranty of commercial properties and buildings designed to be occupied by five or more families and against financial loss by reason of nonpayment of rent in connection with buildings occupied for industrial or commercial purposes.

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1-18-82
[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 2063

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 29, 1980

By Assemblymen BORNHEIMER, DOYLE, BURSTEIN, ADUBATO,
McENROE, PATERNITI, BROWN, MAYS, T. GALLO, KOSCO
and REMINGTON

Referred to Committee on Banking and Insurance

AN ACT to amend the "Mortgage Guaranty Insurance Act," ap-
proved August 12, 1968 (P. L. 1968, c. 248).

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

1 1. Section 2 of P. L. 1968, c. 248 (C. 17:46A-2) is amended to
2 read as follows:

3 2. Definitions. The definitions set forth in this section shall
4 govern the construction of the terms used in this act.

5 (a) "Mortgage guaranty insurance" means (1) insurance against
6 financial loss by reason of nonpayment of principal, interest and
7 other sums agreed to be paid under the terms of any note or bond
8 or other evidence of indebtedness secured by a mortgage, deed of
9 trust, or other instrument constituting a lien or charge on real
10 estate, *provided the improvement on such real estate is a residen-*
11 *tial building or a condominium unit or buildings designed for oc-*
12 *cupancy by not more than four families;*

13 (2) *Insurance against financial loss by reason of nonpayment of*
14 *principal, interest or other sums agreed to be paid under the terms*
15 *of any note or bond or other evidence of indebtedness secured by a*
16 *mortgage, deed of trust or other instrument constituting a lien or*
17 *charge on real estate, providing the improvement on such real*
18 *estate is a building or buildings designed for occupancy by five or*
19 *more families or designed to be occupied for industrial or commer-*
20 *cial purposes;*

21 (3) *Insurance against financial loss by reason of nonpayment of*
22 *rent or other sums agreed to be paid under the terms of a written*
23 *lease for the possession, use or occupancy of real estate, provided*
24 *the improvement on such real estate is a building or buildings de-*
25 *signed to be occupied for industrial or commercial purposes.*

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

26 (b) "Authorized real estate security" means [a note, bond or
 27 other evidence of indebtedness not exceeding 95% of the fair
 28 market value of the real estate, secured by a mortgage, deed of
 29 trust, or other instrument constituting a first lien or charge on
 30 real estate; provided:

31 (1) The real estate loan secured in such manner is one which a
 32 bank, savings and loan association, or an insurance company, which
 33 is supervised and regulated by a department of this State or an
 34 agency of the Federal Government, is authorized to make.

35 (2) The improvement on such real estate is a residential building
 36 or buildings the principal use of which is residential; but minor use
 37 for commercial or business purposes may be included if the primary
 38 use is residential.

39 (3) The lien on such real estate may be subject and subordinate
 40 to the following:

41 (i) The lien of any public bond, assessment, or tax, when no
 42 installment, call or payment of or under such bond, assessment
 43 or tax is delinquent.

44 (ii) Outstanding mineral, oil or timber rights, rights-of-way,
 45 easements or rights-of-way or support, sewer rights, building
 46 restrictions or other restrictions or covenants, conditions or
 47 regulations of use, or outstanding leases upon such real
 48 property under which rents or profits are reserved to the
 49 owner thereof.] **[the improvement on such real estate as a*
 50 *building or buildings are designed for occupancy as specified*
 51 *by paragraphs (a) (1) and (a) (2) of this section]* * *a note,*
 51A *bond or other evidence of indebtedness not exceeding 95% of the*
 51B *fair market value of the real estate, secured by a mortgage, deed of*
 51C *trust, or other instrument constituting a first lien or charge on*
 51D *real estate; provided:*

51E (1) *The real estate loan secured in such manner is one which a*
 51F *bank, savings and loan association, or an insurance company, which*
 51G *is supervised and regulated by a department of this State or an*
 51H *agency of the Federal Government, is authorized to make.*

51I (2) *The improvement on such real estate as a building or build-*
 51J *ings are designed for occupancy as specified by subsections (a) (1)*
 51K *and (a) (2) of this section.*

51L (3) *The lien on such real estate may be subject and subordinate*
 51M *to the following:*

51N (i) *The lien of any public bond, assessment, or tax, when no*
 51O *installment, call or payment of or under such bond, assessment*
 51P *or tax is delinquent.*

51q (ii) *Outstanding mineral, oil or timber rights, rights-of-way,*
 51r *easements or rights-of-way or support, sewer rights, building*
 51s *restrictions or other restrictions or covenants, conditions or*
 51t *regulations of use, or outstanding leases upon such real*
 51u *property under which rents or profits are reserved to the*
 51v *owner thereof.**

52 (c) "Contingency reserve" means an additional premium reserve
 53 established for the protection of policyholders against the effect of
 54 adverse economic cycles.

55 (d) "Policyholders surplus" means the aggregate of capital,
 56 surplus and contingency reserve.

1 2. Section 4 of P. L. 1968, c. 248 (C. 17:46A-4) is amended to
 2 read as follows:

3 4. Limitations and restrictions for transacting business.

4 (a) Mortgage guaranty insurance may be transacted in this State
 5 only by a stock insurance company holding a certificate of authority
 6 for the transaction of such insurance, and shall be written only to
 7 insure loans secured by authorized real estate securities as defined
 8 in section 2 of this act.

9 (b) A mortgage guaranty insurance company shall not insure
 10 loans secured by properties in a single housing tract or a contiguous
 11 tract in excess of 10% of the insurance company's policyholders
 12 surplus. In determining the amount of such risk, applicable rein-
 13 surance in any assuming insurance company authorized to transact
 14 mortgage guaranty insurance in this State shall be deducted from
 15 the total direct risk insured. "Contiguous," for the purposes of
 16 this section, means not separated by more than ½ mile.

17 (c) A mortgage guaranty insurance company shall limit its
 18 coverage to a maximum of 25% of the outstanding balance of the
 19 loan insured, but the liability of the insurance company shall in no
 20 event exceed the actual loss. In lieu of paying the percentage of
 21 the loan insured as specified in the policy, a mortgage guaranty
 22 insurance company may elect to pay the entire indebtedness to the
 23 insured and acquire title to the authorized real estate security.

24 d. (Deleted by amendment.) *P. L. 1975, c. 122, s. 2.*

25 (e) (1) A mortgage guaranty insurance company which any-
 26 where transacts any class of insurance other than mortgage guar-
 27 anty insurance is not eligible for the issuance of a certificate of
 28 authority to transact mortgage guaranty insurance in this State
 29 nor for the renewal thereof.

30 (2) *A mortgage guaranty insurance company which anywhere*
 31 *transacts the classes of insurance defined in paragraphs (a) (2)*

32 *or (a) (3) of section 2 of this act is not eligible for a certificate of*
33 *authority to transact in this State the class of mortgage guaranty*
34 *insurance defined in paragraph (a) (1) of section 2 of this act.*

35 (f) Nothing in this act shall be construed as limiting the right of
36 any mortgage guaranty insurance company to impose reasonable
37 requirements upon the lender with regard to the terms of any note
38 or bond or other evidence of indebtedness secured by a mortgage
39 or deed of trust, such as requiring a stipulated down payment by
40 the borrower.

1 3. This act shall take effect immediately.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2063

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 29, 1980

This legislation amends the "Mortgage Guaranty Insurance Act." It would permit mortgage guaranty insurers to insure buildings occupied by more than five families and to insure mortgages made on commercial or industrial buildings. It would also permit the issuance of insurance which would guarantee against financial loss by reason of nonpayment of rent or other sums agreed to be paid under the terms of a written lease. The definition of "authorized real estate security" would be modified to provide for authorized security in the form of improvements on such real estate as a building or buildings used for residential purposes or for commercial or industrial purposes. The legislation prohibits insurers who presently write mortgage guaranty insurance on one-to-four family residential units from writing coverage on commercial buildings, industrial buildings, or residential units exceeding five families.

At present, companies who write mortgage guaranty insurance are prohibited from writing coverage on any mortgage loans other than those secured by dwellings occupied by four families or less. This legislation permits mortgage guaranty insurance to be issued for larger residential dwellings, for mortgages on commercial and industrial buildings and to provide coverage on certain rental and leased properties. Because of restrictions by the domiciliary states of some of the insurers who write this kind of coverage, it is necessary to establish a separate entity to insure the additional risks which are the subject of this legislation; therefore, the New Jersey statutes are amended by this bill to provide for the same kind of separation of function.

An error in drafting has necessitated the amendment of the bill by the Assembly Banking and Insurance Committee to restore language that should not have been excised from present law.

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SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 2063

STATE OF NEW JERSEY

DATED: MARCH 23, 1981

This legislation amends the "Mortgage Guaranty Insurance Act." It would permit mortgage guaranty insurers to insure buildings occupied by more than five families and to insure mortgages made on commercial or industrial buildings. It would also permit the issuance of insurance which would guarantee against financial loss by reason of nonpayment of rent or other sums agreed to be paid under the terms of a written lease. The definition of "authorized real estate security" would be modified to provide for authorized security in the form of improvements on such real estate as a building or buildings used for residential purposes or for commercial or industrial purposes. The legislation prohibits insurers who presently write mortgage guaranty insurance on one-to-four family residential units from writing coverage on commercial buildings, industrial buildings, or residential units exceeding five families.

At present, companies who write mortgage guaranty insurance are prohibited from writing coverage on any mortgage loans other than those secured by dwellings occupied by four families or less. This legislation permits mortgage guaranty insurance to be issued for larger residential dwellings, for mortgages on commercial and industrial buildings and to provide coverage on certain rental and leased properties.

1-18-82

FROM THE OFFICE OF THE GOVERNOR

A-1649, also by Assemblyman Doyle, permitting the governing body of a county to appoint two additional members to a county library commission. County Library Commissions currently consisted of five unpaid members, serving five year terms, who are responsible for establishing and maintaining libraries within the appropriations made by a county.

This bill is in response to a recommendation by the County and Municipal Government Study (Musto) Commission, which recommended making the seven-member commission mandatory.

A-53, sponsored by Assemblyman Herman Costello (D-Burlington), providing that first-party benefits under the New Jersey no-fault insurance laws will not be collected for the purposes of paying off a debt of the insured.

First-person benefits under the no-fault laws are, for example, medical expense, survivor, income continuation or essential service benefits. Levies, executions, and debt attachments on those benefits are prohibited by the bill.

A-2063, sponsored by Assemblyman James W. Bornheimer (D-Middlesex), amending the "Mortgage Guaranty Insurance Act" and permitting mortgage insurance to be issued for residential dwellings occupied by more than four families, for commercial and industrial buildings, and for coverage on certain rented and leased properties.

The bill lifts some prohibitions on the issuance of mortgage insurance policies, and is expected to facilitate the financing of multi-family housing and industrial and commercial buildings.

A-1819, sponsored by Assemblyman Richard J. Codey (D-Essex), authorizing the establishment of a separate retirement benefits system in Newark's Employee Retirement System for elected officials of Newark--the Mayor and the nine councilmen. Adoption of such a system would be contingent upon the passage of a city ordinance.

Newark's elected officials currently have no pension system other than Social Security. Membership in the new system would be mandatory, with the officials contributing 5-percent of their salary as an official.

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