

17:16H-1 to 17:16H-4

LEGISLATIVE HISTORY CHECKLIST

HJSA 17:16H-1 to 17:16H-4 (Banks - Advertising - Regulate)

LAWS OF 1979 CHAPTER 193

Bill No. A1754

Sponsor(s) Jackman

Date Introduced Oct. 16, 1978

Committee: Assembly Banking and Insurance

Senate Labor, Industry and Professions

Amended during passage Yes No

Date of Passage: Assembly Dec. 11, 1978

Senate June 18, 1979

Date of approval Sept. 13, 1979

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

(mentioned in Assembly Committee Statement)

Regulation Q located in:
12 CFR Part 217

Regulation Z located in:
12 CFR 226

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ASSEMBLY, No. 1754

STATE OF NEW JERSEY

INTRODUCED OCTOBER 16, 1978

By Assemblyman JACKMAN

Referred to Committee on Banking and Insurance

AN ACT concerning the regulation of advertising by banks and other financial institutions and supplementing Title 17 of the Revised Statutes.

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

1 1. As used in this act: a. "Financial institution" shall mean any
2 bank, savings bank, state association, credit union, secondary
3 mortgage lender, small loan company or any other institution,
4 corporation, partnership or individual subject to the supervision,
5 regulation or licensing by the Department of Banking.

6 b. "Commissioner" shall mean the Commissioner of Banking
7 of New Jersey.

1 2. No financial institution shall make, publish, disseminate,
2 circulate, or place before the public, or cause directly or indirectly,
3 to be made, published, disseminated, circulated, or placed before the
4 public, in a newspaper, magazine or other publication, or in the
5 form of a notice, circular, pamphlet, letter or poster, or over any
6 radio or television station, or in any other way, an advertisement,
7 announcement or statement containing any assertion, representa-
8 tion or statement with respect to the business of banking, lending
9 or being a financial institution or with respect to any person in the
10 conduct of such business, which is inaccurate, untrue, deceptive or
11 misleading, or which negatively affects the public's confidence in
12 such financial institution or financial institutions in general.

1 3. The commissioner shall enforce the provisions of this act and
2 shall promulgate such regulations as he deems necessary for the
3 effective implementation of this act, including regulations establish-
4 ing standards for advertising by financial institutions.

1 4. The commissioner may, after notice and opportunity for a
2 hearing, order any financial institution to cease and desist from
3 violations of this act. Any financial institution which fails to comply

4 with an order of the commissioner shall be subject to a penalty not
5 to exceed \$500.00 for each violation. Any penalty imposed by the
6 commissioner shall be enforced and collected pursuant to the
7 penalty enforcement law (N. J. S. 2A:58-1 et seq.).
1 5. This act shall take effect immediately.

STATEMENT

This bill is intended to clarify the Commissioner of Banking's authority to regulate advertisements by individuals and institutions under his supervision. It forbids the dissemination of advertising which is inaccurate, untrue, deceptive or misleading, or which negatively affects the public's confidence in financial institutions. The commissioner is given the authority to enforce the bill. He is also empowered to promulgate regulations establishing standards for advertising by financial institutions.

SPONSOR'S STATEMENT

This bill is intended to clarify the Commissioner of Banking's authority to regulate advertisements by individuals and institutions under his supervision. It forbids the dissemination of advertising which is inaccurate, untrue, deceptive or misleading, or which negatively affects the public's confidence in financial institutions. The commissioner is given the authority to enforce the bill. He is also empowered to promulgate regulations establishing standards for advertising by financial institutions.

A1754 (1979)

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1754

STATE OF NEW JERSEY

DATED: DECEMBER 4, 1978

This legislation provided that no bank, savings bank, savings and loan association, credit union, secondary mortgage lender, small loan company or any other institution, corporation, partnership or individual subject to the supervision, regulation, or licensing by the Department of Banking shall advertise or make other kinds of representation regarding the business of banking, lending or being a financial institution if the statements made are inaccurate, untrue, deceptive or misleading, or which negatively affects the public's confidence in such financial institution or financial institutions in general. The commissioner would enforce the provisions of the act as well as being permitted to promulgate regulations, including regulations establishing standards for advertising by financial institutions. The commissioner could order a violator of the act to cease and desist, and violators of the act would be subject to a fine not to exceed \$500.00 for each violation.

Certain areas of advertising are already regulated by the Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, the Federal Trade Commission and the Federal Reserve Bank. These include the paying of interest on deposits (Regulation Q) and charging of interest on loans or retail credit agreements (Regulation Z). Certain restrictions are also placed on institutions with respect to things such as the advertising of premiums for opening new accounts. Many areas are not regulated, and some abuses in advertising do exist. An example was the advertising of the instrument known as the "bearer Bond," in which it was implied in newspaper advertisements that payment of federal income tax on the yield from the instruments could be avoided because the instrument was not made out to any individual by name, and the interest payable thereon not reported to the Internal Revenue Service.

The Commissioner of Banking has no explicit statutory authority to deal with abuses such as this; instead, any patently false advertisement would have to be subject to the Consumer Fraud Act. The Assembly Banking and Insurance Committee believes that this legislation would give the commissioner needed authority over bank advertising, as well as the authority to establish guidelines.

A-502, sponsored by Assemblyman Byron M. Baer (D-Bergen), which requires the Department of Education to conduct a one-year study of existing pilot programs that provide special education programs for gifted and talented students.

The Department is to report its findings to the Governor and the Legislature and make recommendations for the full implementation of such programs in all local school districts.

The bill requires the Commissioner of Education to develop criteria to be used in the study within 90 days of the effective date of the measure and to select the districts to participate in the study within 60 days thereafter.

A-3754, sponsored by Assembly Speaker Christopher J. Jackman, which prohibits financial institutions from publishing inaccurate, untrue, deceptive or misleading advertising about the business of banking or advertising which negatively affects the public's confidence in financial institutions.

The bill would also apply to advertising or statements with respect to any person involved in the business of banking.

Under the bill, the Commissioner of Banking may order a financial institution to cease and desist from violations of the act after the institution has been given notice and received an opportunity to be heard. Failure to comply with the cease and desist order could result in a civil penalty not to exceed \$500.

The measure also gives the Commission the authority to promulgate regulations establishing standards for advertising by financial institutions.

"Recent advertisement by some financial institutions implied that bearer certificates of deposit could be used to avoid the payment of income taxes, and I am also concerned about advertising which could mislead consumers about savings bank interest and yields," Byrne said.

"This bill is necessary in order to protect the public from unscrupulous or misleading advertising," he said.