

17:9A-3

LEGISLATIVE HISTORY CHECKLIST

WJSA 17:9A-3 (Banks--Officers, directors, employees may be incorporator of another bank)

LAWS OF 1979 CHAPTER 300

Bill No. A871

Sponsor(s) Bornheimer

Date Introduced Feb. 23, 1978

Committee: Assembly Banking and Insurance

Senate Labor, Industry and Professions

Amended during passage Yes  
according to Governor's recommendations

Amendments denoted by asterisks

Date of Passage: Assembly May 4, 1978

Re-enacted Dec. 10, 1979

Senate May 3, 1979

Re-enacted Jan. 3, 1980

Date of approval Jan. 17, 1980

Following statements are attached if available:

Sponsor statement	Yes	<input checked="" type="checkbox"/> (Below)
Committee Statement: Assembly	Yes	<input checked="" type="checkbox"/>
Senate	<del>Yes</del>	No
Fiscal Note	<del>Yes</del>	No
Veto message	Yes	<input checked="" type="checkbox"/>
Message on signing	<del>Yes</del>	No

Following were printed:

Reports	<del>Yes</del>	No
Hearings	<del>Yes</del>	No

Sponsor's statement:

The purpose of this bill is to eliminate an arbitrary provision from State law. There is no similar prohibition in the laws governing national banks.

BJ/73

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**ASSEMBLY, No. 871**

**STATE OF NEW JERSEY**

INTRODUCED FEBRUARY 23, 1978

By Assemblyman BORNHEIMER

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

3 3. Incorporation; certificate of incorporation\***[.]**\* **[**officers,  
4 directors and employees as incorporators**]** \*; *officers, directors and*  
4A *employees as incorporators.\**

5 **[A.]** \*A.\* Seven or more persons, of full age, may incorporate a  
6 bank on the terms and conditions prescribed by this act. Such  
7 persons shall execute and acknowledge a certificate of incorporation  
8 stating:

- 9 (1) The name by which the bank shall be known;
- 10 (2) The street, street number, if any, and municipality in which  
11 the principal office of the bank is to be located;
- 12 (3) The powers authorized by this act which the bank will have  
13 power to exercise;
- 14 (4) The amount of the capital stock, the number of shares into  
15 which it is divided, and the par value of each share;
- 16 (5) The amount of surplus with which the bank will commence  
17 business;
- 18 (6) The amount of the fund reserved for organization expense  
19 pursuant to section 5;
- 20 (7) The names and residences of the incorporators, and the  
21 number of shares subscribed for by each;
- 22 (8) The number of directors, or that the number of directors  
23 shall be not less than a stated minimum, or more than a stated  
24 maximum;

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

25 (9) The names of the persons who will serve as directors until  
26 the first annual meeting of stockholders; and

27 (10) Such other provisions, not inconsistent with this act, as the  
28 incorporators may choose to insert for the regulation of the busi-  
29 ness and affairs of the bank.

30 **【B. No officer, director or employee of any bank may, directly  
31 or indirectly, be an incorporator of another bank.】**

32 *\*B. An officer, director or employee of any bank may be an in-  
33 corporator of another bank when not inconsistent with such  
34 person's fiduciary duty or other applicable law.\**

1 2. This act shall take effect immediately.

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ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 871

—  
**STATE OF NEW JERSEY**  
—

DATED: APRIL 27, 1978

This legislation deletes the provision contained in Section 3 of the Banking Law of 1948 (C. 17:9A-3), which prohibits officers, directors, and employees of banks from acting as incorporators of another bank.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

December 6, 1979

ASSEMBLY BILL NO. 871

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I return Assembly Bill No. 871, with my objections, for reconsideration.

This bill would repeal the section of the Banking Act of 1948 which prohibits an officer, director or employee of any bank from being, directly or indirectly, an incorporator of another bank. While I agree that there is no need to have a blanket prohibition, I am concerned that this bill could be interpreted as validating the action of an officer, director or employee which might be a violation of fiduciary duty, an antitrust law or some other applicable law. For this reason, I ask you to amend this bill to make it clear that an officer, director or employee of a bank may be an incorporator of another bank only when such action is not inconsistent with such person's fiduciary duty or other applicable law.

Accordingly, I respectfully recommend the following changes in Assembly Bill No. 871:

Page 1, Section 1, Line 3: Omit ".".

Page 1, Section 1, Line 4: After line 4, insert "; officers, directors and employees as incorporators."

Page 1, Section 1, Line 5: After "[A.]", insert "A."

Page 2, Section 1, Line 31: After "bank.]", insert:

"B. An officer, director or employee of any bank may be an incorporator of another bank when not inconsistent with such person's fiduciary duty or other applicable law."

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY