

17:2-6

LEGISLATIVE HISTORY CHECKLIST

NJSA 17:2-6 (Bank loans for purchasing stock in cooperative apartments)

LAWS OF 1977 CHAPTER 94

Bill No. A1723

Sponsor(s) Bornheimer and others

Date Introduced March 8, 1976

Committee: Assembly Commerce, Banking & Insurance

Senate Labor, Industry & Professions

Amended during passage Yes * Amendments during passage denoted by asterisks

Date of Passage: Assembly July 22, 1976

Senate January 27, 1977

Date of approval May 16, 1977

Following statements are attached if available:

Sponsor statement	Yes	X
Committee Statement: Assembly	Yes	X
Senate	X	No
Fiscal Note	X	No
Veto Message	X	No
Message on signing	X	No

Following were printed:

Reports	X	No
Hearings	X	No

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ASSEMBLY, No. 1723

STATE OF NEW JERSEY

INTRODUCED MARCH 8, 1976

By Assemblymen BORNHEIMER, KARCHER, SCANLON,
ADUBATO, FROUDE, Assemblywoman CURRAN, Assemblymen
ORECHIO, CHINNICI, FLYNN, KOZLOSKI, BURSTEIN,
HAMILTON and FORAN

Referred to Committee on Commerce, Banking and Insurance

AN ACT concerning legal investments and amending R. S. 17:2-6.

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

1 1. R. S. 17:2-6 is amended to read as follows:

2 17:2-6. Savings banks, banks, banking institutions, trust com-
3 panies, building and loan associations, ****savings and loan associa-**
4 **tions,**** mortgage companies and insurance companies organized
5 under any general or special law of this State, all boards, commis-
6 sions and departments of the State Government and of the various
7 counties and municipalities thereof, and executors, administrators,
8 trustees, guardians and other fiduciaries are authorized:

9 a. To make such real estate mortgage loans as may be guaranteed
10 or insured in whole or in part by the United States of America or
11 the State of New Jersey, or by any officer, agency or instrumentality
12 of either of them, or for which a commitment to so guarantee or
13 insure has been made, and to invest in, purchase or otherwise
14 acquire, own or hold, mortgage notes or bonds so guaranteed or
15 insured;

16 b. To cause such mortgage securities to be and be kept so
17 guaranteed or insured and to pay for and receive the benefits of
18 such guarantees or insurance;

19 c. To invest in, purchase or otherwise acquire, own and hold
20 notes, bonds, debentures, capital stock or other such obligations
21 of any national mortgage association; provided, the issuance of
22 such notes, bonds, debentures, capital stock or other such obliga-
23 tions has been approved by the Federal Housing Administrator.

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

24 Nothing in sections 17:2-5 to 17:2-8 of this Title contained shall be
 25 construed to empower any fiduciary to make any investment or
 26 commitment in capital stock pursuant to paragraph "c" of this
 27 section[.];

28 d. *To make loans for the purpose of financing the purchase of*
 29 *or refinancing an existing ownership interest in certificates of*
 30 *stock or other evidence of an ownership interest in, and a pro-*
 31 *prietary lease from, a corporation or partnership formed for the*
 32 *purpose of cooperative ownership of real estate in this State.*

33 ****[A bank]**** ****Such institutions**** may, subject to such regu-
 34 lations as the commissioner finds necessary and proper, invest to
 35 an amount not exceeding 85% per annum of the purchase price or,
 36 in the case of a refinancing, the appraised value of certificates of
 37 stock or other evidence of an ownership interest in and a proprie-
 38 tary lease from, a corporation or partnership formed for the pur-
 39 pose of the cooperative ownership of real estate within the State,
 40 for the purpose of financing a purchase of or refinancing an existing
 41 ownership interest in such a corporation or partnership, provided
 42 (1) such investment is secured within 90 days from the making of
 43 the loan by an assignment or transfer of the stock or other evidence
 44 of an ownership interest of the borrower and a proprietary lease;
 45 and (2) repayment of principal and interest shall be effected within
 46 30 years. Notwithstanding any other provision of law, the maxi-
 47 mum rate of interest which may be charged, taken or received upon
 48 any loan or forbearance made pursuant to this subsection may ex-
 49 ceed **by no more than 1 1/2% per annum** the rate of interest
 50 prescribed by the commissioner ***[by no more than 1 1/2% per**
 51 **annum.]*** **which is applicable to mortgage loans on **[one-to-*
 52 *three]*** ****one-to-six**** family ****[owner-occupied]**** dwellings
 53 ****a portion of which may be used for commercial purposes,**** pur-
 54 **suant to the provisions of R. S. 31:1-1 et seq.***

1 2. This act shall take effect 90 days after its enactment.

24 Nothing in sections 17:2-5 to 17:2-8 of this Title contained shall be
25 construed to empower any fiduciary to make any investment or
26 commitment in capital stock pursuant to paragraph "c" of this
27 section[.]:

28 d. *To make loans for the purpose of financing the purchase of*
29 *or refinancing an existing ownership interest in certificates of*
30 *stock or other evidence of an ownership interest in, and a pro-*
31 *proprietary lease from, a corporation or partnership formed for the*
32 *purpose of cooperative ownership of real estate in this State.*

33 *A bank may, subject to such regulations as the commissioner*
34 *finds necessary and proper, invest to an amount not exceeding 85%*
35 *per annum of the purchase price or, in the case of a refinancing,*
36 *the appraised value of certificates of stock or other evidence of an*
37 *ownership interest in and a proprietary lease from, a corporation*
38 *or partnership formed for the purpose of the cooperative owner-*
39 *ship of real estate within the State, for the purpose of financing a*
40 *purchase of or refinancing an existing ownership interest in such*
41 *a corporation or partnership, provided (1) such investment is*
42 *secured within 90 days from the making of the loan by an assign-*
43 *ment or transfer of the stock or other evidence of an ownership*
44 *interest of the borrower and a proprietary lease; and (2) repay-*
45 *ment of principal and interest shall be effected within 30 years.*
46 *Notwithstanding any other provision of law, the maximum rate of*
47 *interest which may be charged, taken or received upon any loan or*
48 *forbearance made pursuant to this subsection may exceed the rate*
49 *of interest prescribed by the commissioner by no more than 1 1/2%*
50 *per annum.*

1 2. This act shall take effect 90 days after its enactment.

STATEMENT

People living in cooperative apartments who desires to sell their stock and vacate their apartments have found it difficult to get buyers because commercial banks are reluctant to give loans to those people wishing to buy this kind of stock. Therefore the only people able to purchase this stock are those who have the full amount in cash. They are often retired people who have sold their houses and have the necessary cash available to them.

Commercial banks avoid making these loans for two reasons. First, under present law there is an 8% ceiling placed on loans for stock, as opposed to a 9 $\frac{1}{4}$ % ceiling on mortgage loans. Second,

there is no lien on any real property involved. In the event of a foreclosure the bank is left holding stock which is not easily convertible. A bank cannot get rid of this stock as easily as it does a piece of real property, largely because there is a third party interest involved. Before anyone can purchase the stock, the cooperative must approve of him as a resident. This practice can impede a bank's procedure for reclaiming its money.

Nevertheless, it is not only this risk that has caused commercial banks to stay away from loans in this area. Some believe that they are hesitant to put part of their resources into cooperatives largely because they know too little about them. While cooperative apartments are not widespread in New Jersey, they are quite popular in New York, where banks are allowed to make loans to those buying stock in them. Under law these banks are permitted to charge a higher rate of interest than is allowed for conventional mortgage loans.

This bill will allow savings and loan, savings and commercial banks to make loans for the purpose of buying stock in cooperative apartments. It will also allow these banks to charge a rate of interest on these loans which is no higher than $1\frac{1}{2}\%$ per year above the mortgage rate approved by the Commissioner of Banking. Because of the risk factor involved, a higher rate of interest may be warranted in order to make such investments attractive.

ASSEMBLY COMMERCE, BANKING AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1723

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: APRIL 23, 1976

Presently, New Jersey law has no specific provisions to permit financial institutions to loan funds to individuals wishing to purchase stock in cooperative housing or to refinance existing ownership. As a result, individuals living in cooperative apartments have experienced difficulty in selling their stock because potential purchasers are unable to obtain loans. As an individual who purchases an interest in a cooperative purchases stock there is no lien on real property involved in the loan; therefore, the lender assumes a higher risk in making such loans as the bank is left holding stock in the event of foreclosure.

This legislation, modeled after New York law, would permit banks, savings banks, and savings and loan associations to make loans for the purpose of financing the purchase of certificates of stock or other evidence of an ownership interest in a corporation or partnership formed for the purpose of cooperative ownership of real estate. It would also permit the refinancing of such loans. The lender's investment must not exceed 85% of the purchase price of the stock or, in the case of refinancing, 85% of the appraised value of the stock. The investment must be secured within 90 days after the loan is made, and complete repayment of the principal and interest must be effected within 30 years. In recognition that such loans are a higher risk investment than regular mortgage loans because they are not secured by real property, this legislation permits lenders to exceed by no more than 1½% the mortgage interest rate set by the Commissioner of Banking on one-to-three family owner-occupied dwellings. The Commerce, Banking, and Insurance Committee has amended the bill to clarify the language regarding the mortgage interest rate.