

17:9A-53 to 59

LEGISLATIVE HISTORY CHECKLIST

NJSA 17:9A-53 to 17:9A-59 (Installment loans)

Laws of 1976 Chapter 128

Bill No. S92

Sponsor(s) Feldman & Hirkala

Date Introduced Pre-filed

Committee: Assembly Commerce, Banking & Insurance

Senate Labor, Industry & Professions

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks.

Date of passage: Assembly August 10, 1976

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Date of approval December 21, 1976

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:

|          |     |    |
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| Reports  | Yes | No |
| Hearings | Yes | No |

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SENATE, No. 92

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1976 SESSION

By Senators FELDMAN and HIRKALA

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; **[taking interest in advance]**  
4 *interest.*

5 **[A.** A bank may make installment loans upon the terms and  
6 conditions prescribed by this article. A loan so made is referred to  
7 in this article as "a loan to which this article applies."**]**

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

13 B. As used in this article:

14 (1) "bank" **[includes]** *means a banking institution as defined in*  
15 *section 1 (C. 17:9A-1) of this act [a national banking association*  
16 *having its principal office in this State and solely with respect to*  
17 *the making of installment loans herein defined as a Class II loans*  
18 *or a property improvement loan the term "bank" includes a*  
18A *savings bank]*;

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

19    **[(2) “installment loan” means a loan which is required by its**  
 20 **terms to be repaid in installments;]**

21    (2) *“installment loan” means a loan (1) which is required by its*  
 22 *terms to be repaid in two or more installments; (2) upon which*  
 23 *interest is contracted for at a rate in excess of that authorized*  
 24 *pursuant to R. S. 31:1-1; (3) the amount of which does not exceed*  
 25 *\$10,000.00; and (4) the final installment of which is payable not*  
 26 *more than 7 years and 3 months subsequent to the date upon which*  
 27 *such loan is made. The terms “installment loan” and “installment*  
 28 *loans” as used in this article include both precomputed and non-*  
 29 *\*[computed]\* \*precomputed\* installment loans unless otherwise*  
 29A *expressly stated;*

30    (3) **["payment-period” means the period of time scheduled, by**  
 31 **the terms of a loan to which this article applies, to elapse between**  
 32 **the days upon which installment payments are required to be made**  
 33 **on such loan; except that, in a case where installment payments are**  
 34 **omitted pursuant to paragraph (1) of section 54, “payment-**  
 35 **period” means the period of time scheduled to elapse between the**  
 36 **days upon which installment payments are required to be made**  
 37 **during that portion of the term of such loan in which no installment**  
 38 **payment may be omitted;]** *(Deleted by amendment.)*

39    (4) **["net proceeds” means the difference between the full**  
 40 **amount of a loan to which this article applies, and the amount of**  
 41 **interest taken in advance upon such loan pursuant to this article;]**  
 42 *(Deleted by amendment.)*

43    (5) **“person” means an individual, [a corporation,] a partner-**  
 44 **ship and an association;**

45    (6) **["Class I loan” means a loan to which this article applies,**  
 46 **which is not a property improvement loan;]** *(Deleted by*  
 47 *amendment.)*

48    (7) **["Class II loan” means a loan to which this article applies,**  
 49 **which is a property improvement loan;]** *(Deleted by amendment.)*

50    (8) **["property improvement loan” means a loan to which this**  
 51 **article applies, the purpose of which, as represented to the bank,**  
 52 **by the borrower, is to enable the borrower to pay the cost, in whole**  
 53 **or in part, of modernizing, rehabilitating, altering, repairing or**  
 54 **improving real property in which the borrower has an interest,**  
 55 **and in connection with which the borrower files with the bank,**  
 56 **at the time when the loan is made, either (1) a copy of the contract**  
 57 **pursuant to which such modernizing, rehabilitating, altering,**  
 58 **repairing or improving has been done or is to be done; or, if the**

59 borrower represents there is no such contract, (2) a statement,  
 60 sworn to by the borrower, that the proceeds of the loan will be  
 61 used to pay the cost, in whole or in part, of modernizing, rehabili-  
 62 tating, altering, repairing or improving such real property, as the  
 63 case may be.】 *(Deleted by amendment.)*

64 (9) “*actuarial method*” means the method of applying payments  
 65 made on a loan between principal and interest pursuant to which  
 66 a payment is applied first to accumulated interest on the principal  
 67 amount of the loan and the remainder is applied to the unpaid  
 68 principal balance of the loan in reduction thereof;

69 (10) “*precomputed interest*” means an amount equal to the  
 70 whole amount of interest payable on an installment loan for the  
 71 period from the making of the loan to the date scheduled by the  
 72 terms of the loan for the payment of the final installment;

73 (11) “*precomputed loan*” means an installment loan which is  
 74 evidenced by a note the face amount of which consists of the aggre-  
 75 gate of the principal amount of the loan so evidenced, and the  
 76 precomputed interest thereon;

77 (12) “*nonprecomputed loan*” means an installment loan which  
 78 is evidenced by a note the face amount of which consists solely of  
 79 the principal amount of the loan so evidenced;

80 (13) “*unpaid balance*” of an installment loan means the aggre-  
 81 gate of the following:

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

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

85 (iii) all interest accrued and unpaid;

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

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

91 less the aggregate of the following:

92 (vi) all installment payments made in the case of a pre-  
 93 computed loan, or all payments made in reduction of principal  
 94 in the case of a nonprecomputed loan;

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

98 (viii) in the case of a precomputed loan, the amount of the  
 99 credit to which the borrower is entitled pursuant to section  
 99A 56;

99B (14) "Class I installment loan" means an installment loan  
 99C which is unsecured, and also means an installment loan which is  
 99D secured by an interest in tangible personal property;

99E (15) "Class II installment loan" means an installment loan  
 99F which is secured by an interest in real property.

100 C. [Except as in this section otherwise provided, a bank may  
 101 make an installment loan and may take interest in advance upon  
 102 the full amount of such loan for the period from the making of the  
 103 loan to the date of maturity of the final installment, in an amount  
 104 not exceeding the amount determined by the application of the  
 105 formula  $I = .11784A(P+1) \div 2N + .11784(P+1)$ , in which "I"  
 106 represents the maximum amount of interest which may be taken  
 107 in advance; "A" represents the full amount of the loan; "P"  
 108 represents the number of payment-periods contained in the period  
 109 from the date of the making of the loan to and including the  
 110 date of maturity of the final installment; and "N" represents, to  
 111 the nearest whole number, the number of payment-periods con-  
 112 tained in a calendar year.]

113 A bank may contract for and receive interest on installment  
 114 loans calculated according to the actuarial method, at a rate not  
 115 exceeding 12% per annum on the unpaid balances of the principal,  
 116 except that the commissioner may, with the advice of the  
 116A special advisory board created pursuant to P. L. 1970, c. 205,  
 116B section 11 (C. 17:11A-44) by regulation adopted, amended and  
 116C rescinded from time to time, provide that the rate of interest  
 116D which may be contracted for and received on \*[any such loan]\*  
 116E \*Class II installment loans\* may be more than 12% per annum but  
 116F not more than 15% per annum as shall be established by such regu-  
 116G lation. For the purpose of establishing rates as provided by this  
 116H subsection, the commissioner may, with the advice of the special  
 116I advisory board referred to above, classify installment loans into  
 116J two categories, one of which shall consist of Class I installment  
 116K loans and the other of which shall consist of Class II installment  
 116L loans\*[, and he may, from time to time, with the advice of the  
 116M special advisory board and within the limits prescribed by this  
 116N subsection, establish a rate applicable to all loans included in one  
 116O such category without acting with respect to loans included in the  
 116P other category, or he may, in a single regulation, establish a rate  
 116Q for all loans included in one such category and the same rate or a  
 116R differing rate for all loans included in the other category]\*. In  
 116S adopting, amending, and rescinding regulations pursuant to this  
 116T subsection, the commissioner and the special advisory board shall

116v consider the general state of the economy, the discount rates pre-  
 116w scribed by the Federal Reserve Bank of New York and the Federal  
 116x Reserve Bank of Philadelphia, the advance rate as prescribed by  
 116y the Federal Home Loan Bank of New York, the availability of  
 116z funds for loans, studies and statistics published by the Federal  
 117 Home Loan Bank Board and other agencies of the United States  
 118 and of this State, and such other factors and bases for determination  
 119 as the commissioner and the board may deem pertinent. The rate  
 120 established by any such regulation shall reasonably reflect prevail-  
 121 ing market conditions, regionally and nationally, based upon the  
 122 studies, statistics and factors considered, and shall remain in force  
 123 until such time as such regulation is rescinded or such rate is  
 124 increased or decreased by a subsequent regulation. Any such  
 125 regulation shall have prospective effect only. This subsection  
 126 shall not limit or restrict the manner of contracting for the interest  
 127 charge, whether by way of add-on, discount \***[of]**\* \*or\* otherwise,  
 127A so long as the interest rate does not exceed that permitted by this  
 127B subsection. In the case of a precomputed loan, the interest may be  
 127C computed on the assumption that all scheduled payments will  
 127D be made when due, and all scheduled installment payments made  
 127E on a precomputed loan may be applied as if they were received  
 127F on their scheduled due dates. In the case of nonprecomputed  
 127G loans, all installment payments shall be applied no later than the  
 127H next day, other than a public holiday, after the date of receipt, and  
 127H a day shall be counted as one-three-hundred-sixty-fifth of a year.

128 D. **[**Except as in this section otherwise provided, a bank may  
 129 make an installment loan in such an amount that the net proceeds  
 130 thereof shall equal a predetermined sum, and may take interest in  
 131 advance upon the full amount of such loan for the period specified  
 132 in subsection C of this section. The full amount of such loan shall  
 133 not exceed the aggregate of the net proceeds and the amount of  
 134 interest which may be taken in advance, as determined by the  
 135 application of the formula  $I = .11784A(P+1) \div 2N$ , in which "A"  
 136 represents the amount of the predetermined net proceeds and  
 137 "P", "I" and "N" have the same meanings as "P", "I" and  
 138 "N" in subsection C of this section.**]** *(Deleted by amendment.)*

139 E. **[**When, pursuant to this article, the final installment of a loan  
 140 to which this article applies is due and payable more than 3 years  
 141 and 1 month subsequent to the making of such loan, a bank may  
 142 take interest in advance upon the full amount of such loan for the  
 143 period from the making of the loan to the date of maturity of the  
 144 final installment, in an amount not exceeding the amount deter-

145 mined by the application of the formula  $I = .097168A(P+1) \div$   
 146  $2N + .097168A(P+1)$ , in which "I", "A", "P" and "N" have  
 147 the same meanings as "I", "A", "P" and "N" in subsection C  
 148 of this section.】 (*Deleted by amendment.*)

149 F. 【When, pursuant to this article, the final installment of a  
 150 loan to which this article applies is due and payable more than  
 151 3 years and 1 month subsequent to the making of such loan, the  
 152 bank may make such loan in such amount that the net proceeds  
 153 thereof shall equal a predetermined sum, and may take interest in  
 154 advance upon the full amount of such loan for the period from  
 155 the making of the loan to the date of maturity of the final install-  
 156 ment. The full amount of such loan shall not exceed the aggregate  
 157 of the net proceeds and the amount of interest which may be taken  
 158 in advance, as determined by the application of the formula  $I =$   
 159  $.097166A(P+1) \div 2N$ , in which "A" represents the amount of the  
 160 predetermined net proceeds and "P", "I" and "N" have the same  
 161 meanings as "P", "I" and "N" in subsection C of this section.】  
 162 (*Deleted by amendment.*)

163 G. The commissioner may prepare and distribute to such banks  
 164 as shall make a request therefor, a schedule or schedules 【based  
 165 upon the formulas contained in this section】 *to be used in ascer-*  
 166 *taining precomputed interest*, or he may approve a subsisting  
 167 schedule or schedules 【based upon said formulas】, and interest  
 168 taken 【in advance】 pursuant to such schedule or schedules shall  
 169 constitute a complete compliance with this section. A copy of such  
 170 schedule or schedules, certified by the commissioner, shall be  
 171 evidence in all courts and places.

1 2. Section 54 of P. L. 1948, c. 67 (C. 17:9A-54) is amended to  
 2 read as follows:

3 54. *Limitations and conditions.*

4 【A. A bank which makes a loan to which this article applies  
 5 shall not

6 (1) Require that more than one installment be payable in any  
 7 one payment-period, except that the last two installments may be  
 8 payable in the same payment-period. Every such loan shall provide  
 9 for payment-periods of equal duration measured in terms of weeks  
 10 or months, except that the period scheduled to elapse between the  
 11 making of the loan and the date when the first installment is sched-  
 12 uled to be paid, hereinafter in this paragraph referred to as "the  
 13 initial payment-period" may be longer than any other payment-  
 14 period, but may not exceed 60 days. Any such loan may provide  
 15 for the omission of installments during any period not exceeding

16 93 days in any one 12-month period. When the period during which  
17 installments are so omitted falls within or coincides with the initial  
18 payment-period as hereinabove defined, the initial payment-period  
19 may be longer than any other payment-period, but may not exceed  
20 93 days. Except as herein otherwise expressly provided, no pay-  
21 ment-period shall be shorter than 1 week or longer than 1 month;】

22 【(2) Require that the amount of any installment be greater than  
23 or less than that of any other installment, except that the final  
24 installment may be not more than \$1.00 more or less than any pre-  
25 vious installment;】

26 【(3) Prior to default, directly or indirectly take any security  
27 for any such loan other than an interest in tangible personal prop-  
28 erty; except that, in the case of a Class II loan, the bank may take  
29 as security therefor either an interest in tangible personal property  
30 or a mortgage upon the real property to be improved, modernized,  
31 rehabilitated, altered or repaired with the proceeds of such loan;】

32 【(4) Make any Class I loan unless its final installment shall be  
33 due and payable not later than 3 years and 1 month subsequent to  
34 the making of the loan; or make any Class II loan unless its final  
35 installment shall be due and payable not more than 5 years and 1  
36 month subsequent to the making of the loan;】

37 【(5) Make any further interest or other charge or demand, in  
38 connection with such loan, other than those expressly authorized  
39 by this article;】

40 【(6) Make any such loan for the payment of which any person  
41 shall be liable to the bank in any capacity, if the amount of the net  
42 proceeds of such loan, and the amounts of the principal balances  
43 owing on all other loans to which this article applies, for the pay-  
44 ment of which such person is liable to such bank in any capacity,  
45 will, in the aggregate, exceed \$5,500.00 or \$7,500.00 in the case of  
46 a Class II loan. For the purposes of this paragraph, the principal  
47 balance owing on a loan to which this article applies shall be deemed  
48 to be the face amount of the instrument evidencing such loan, less  
49 the aggregate of all installments paid thereon, and less a credit  
50 computed according to the formula contained in section 56. If, for  
51 the purpose of determining the maximum amount in which a per-  
52 son may be liable to a bank, any law of this State provides that the  
53 liability of a person to a bank on loans to which this article applies  
54 shall be added to the liability of such person on loans made pur-  
55 suant to such law, then, for the purpose of applying the \$5,500.00  
56 or \$7,500.00 limitation imposed by this paragraph, the amount of  
57 such person's liability to repay the principal amount, without in-



58 terest or other charges, of loans made pursuant to such law, shall  
 59 be considered as a liability of such person on loans to which this  
 60 article applies.】

61 *A. Every installment loan shall be evidenced by a note the face*  
 62 *value of which shall be in an amount determined pursuant to para-*  
 63 *graph (11) or (12) of subsection B. of section 53, as the case may*  
 64 *require, and which shall provide for payments to be made at monthly*  
 65 *intervals on the corresponding date in each month. Scheduled in-*  
 66 *stallment payments shall be in substantially equal amounts, except*  
 67 *that the final installment scheduled may be in an amount twice the*  
 68 *amount of a preceding installment, plus \$1.00. Such note may*  
 69 *further provide that up to 3 months may elapse between the date*  
 70 *of the loan and the date scheduled for the payment of the first*  
 71 *installment, or between the dates scheduled for the payment of*  
 72 *subsequent installments, provided that in any 12-month period*  
 73 *there shall be not more than 3 months during which no installment*  
 74 *is scheduled to be paid.*

75 *B. No installment loan shall be made the final installment of*  
 76 *which is scheduled to be paid more than 7 years and 3 months sub-*  
 77 *sequent to the date upon which such loan is made.*

78 *C. No bank shall make any further interest or other charge or*  
 79 *demand in connection with such loan, other than those expressly*  
 80 *authorized by this article.*

81 *D. No bank shall make a Class I installment loan for the*  
 82 *payment of which any person shall be liable to the bank in any*  
 83 *capacity, if the amount of such Class I installment loan, and the*  
 84 *amounts of the unpaid balances owing to the bank on all other*  
 85 *Class I installment loans for the payment of which such person*  
 86 *is liable to the bank, will in the aggregate exceed \$10,000.00, nor*  
 86A *shall any bank make a Class II installment loan for the payment*  
 86B *of which any person shall be liable to the bank in any capacity, if*  
 86C *the amount of such Class II installment loan, and the amounts of*  
 86D *the unpaid balances owing to the bank on all other Class II install-*  
 86E *ment loans for the payment of which such person is liable to the*  
 86F *bank, will in the aggregate exceed \$10,000.00.*

86G *\*E. No bank which holds a mortgage which is a first lien on real*  
 86H *property shall make a Class II installment loan secured by a mort-*  
 86I *gage on such real property within 3 years from the time when such*  
 86J *first mortgage was recorded, but this prohibition shall not apply*  
 86K *to any Class II installment loan the purpose of which, as repre-*  
 86L *sented to the bank by the borrower, is to enable the borrower to*

86M *pay the cost, in whole or in part, of modernizing, altering, repair-*  
 86N *ing, improving or rehabilitating such real property.\**

87 **[B.] \*~~[E.]~~ \*F.\*** Nothing in this section or elsewhere in this  
 88 article contained shall prevent a bank from making **[a]** *an install-*  
 89 *ment loan [to which this article applies]*, the proceeds of which  
 90 will be applied in whole or in part to the repayment at or before  
 91 final maturity of a loan theretofore made under the provisions of  
 92 this article or otherwise.

1 3. Section 55 of P. L. 1948, c. 67 (C. 17:9A-55) is amended to  
 2 read as follows:

3 55. Permissible provisions and actions.

4 A. A bank which makes **[a loan to which this article applies]**  
 5 *an installment loan may*

6 (1) *require one or more comakers or endorsers of the [instru-*  
 7 *ment] note evidencing the loan, or one or more guarantors of pay-*  
 8 *ment of the loan, and, prior to default, take as security for any such*  
 9 *loan an interest in either tangible personal property or real*  
 10 *property. After default, an interest in personal property, tangible*  
 11 *and intangible, and in real property may be taken as security for*  
 12 *a Class I installment and a Class II loan. An interest in real prop-*  
 12A *erty taken as security for an installment loan shall not be deemed*  
 12B *a mortgage loan within the meaning of section 181 or article 14;*

13 (2) *when the payment of such loan is secured, require that*  
 14 **[such]** *any property constituting such security be insured for the*  
 15 *benefit of the bank, against such loss or damage as the bank may*  
 16 *require, and may retain out of the proceeds of such loan the pre-*  
 17 *mium for such insurance. The bank may further require that all*  
 18 *taxes, assessments, water rents and other governmental charges*  
 19 *against such property be paid when due and that the security be*  
 20 *maintained free of all executions, levies, encumbrances and other*  
 21 *charges which adversely affect the value of the bank's interest in*  
 22 *such security. If such insurance expires, lapses, or is canceled,*  
 23 *and other insurance by insurers and in amounts satisfactory to the*  
 24 *bank is not furnished to the bank without lapse of coverage, or if*  
 25 *such taxes, assessments, water rents or other governmental charges*  
 26 *are not paid when due, or if any execution, levy, encumbrance or*  
 27 *other charge which adversely affects the value of the bank's in-*  
 28 *terest in such security is not paid or otherwise removed, the bank*  
 29 *may, but shall be under no duty to, obtain such insurance upon such*  
 30 *property, or pay the amount of any such tax, assessment, water*  
 31 *rent or other governmental charge or pay the amount of such exe-*  
 32 *cution, levy, encumbrance or other charge. [and the cost thereof]*

33 *The amount paid by the bank for such insurance, less the amount*  
 34 *of the return premium, if any, received by the bank on cancellation*  
 35 *of prior insurance paid for by the borrower or the cost of which*  
 36 *was retained out of the proceeds of the loan, together with the*  
 37 *amount, if any, paid by the bank for such tax, assessment, water*  
 38 *rent or other governmental charge, shall be added to and become*  
 39 *part of such loan, payable upon demand with interest at the [legal]*  
 40 *rate charged on the loan so secured; and, in default of such pay-*  
 41 *ment within 30 days after such demand, the entire unpaid balance*  
 42 *of the loan shall, at the election of the bank, become immediately*  
 43 *due and payable;*

44 (3) upon institution of a suit for the collection of [a] *an install-*  
 45 *ment loan in default, charge a collection fee, in addition to court*  
 46 *costs allowable by law, equal to [\$7.50 when the unpaid balance*  
 47 *of the loan is \$50.00 or less; \$10.00 when such unpaid balance is*  
 48 *more than \$50.00 but not in excess of \$100.00; \$12.50 when such*  
 49 *unpaid balance is more than \$100.00 but not in excess of \$500.00;*  
 50 *and \$25.00 when such unpaid balance is in excess of \$500.00] 10%*  
 51 *of the unpaid balance of the loan, but not more than \$100.00;*

52 (4) when the payment of such loan is secured, and provision is  
 53 made by law for the filing or recording of the instrument of se-  
 54 curity or notice or abstract thereof, require compliance with such  
 55 provision and retain the cost of such recording or filing out of the  
 56 proceeds of the loan;

57 (5) *In connection with a precomputed installment loan, defer*  
 58 *the scheduled due date or dates of any installment payment or pay-*  
 59 *ments, and, as a consideration therefor make an additional charge*  
 60 *at a rate not exceeding 1% per month computed on the amount of*  
 61 *the scheduled installment payment or payments deferred for the*  
 62 *period or periods for which each such installment payment or part*  
 63 *thereof is so deferred.*

64 B. [An instrument evidencing, or intended to secure the payment  
 65 of, a loan to which this article applies,] *A note evidencing an in-*  
 66 *installment loan, or an instrument providing for the securing of an*  
 67 *installment loan, may provide that*

68 [(1) upon default in the payment of any installment on its due  
 69 date, the entire unpaid balance of the loan shall, at the election of  
 70 the bank, become immediately due and payable;]

71 (1) *upon default in the payment of an installment on its due*  
 72 *date, or upon default in any other term or provision contained in*  
 73 *any note evidencing an installment loan, or in any security agree-*  
 74 *ment given in connection with any installment loan, the entire un-*

75 *paid balance of such loan shall, at the election of the bank, become*  
76 *immediately due and payable;*

77 **[(2) when the maturity of the unpaid balance of the loan is**  
78 **accelerated as provided by this section, the bank may charge in-**  
79 **terest at the legal rate from the date such acceleration takes place**  
80 **upon the difference between the amount of the unpaid principal**  
81 **balance of the loan, and the amount of credit given pursuant to**  
82 **section 56;]**

83 *(2) when the maturity of the unpaid balance of an installment*  
84 *loan is accelerated as provided by this section, the bank may charge*  
85 *interest upon such unpaid balance from the date such acceleration*  
86 *takes place at a rate not exceeding the rate charged on the loan;*

87 **[(3) the bank may charge interest at the legal rate upon each**  
88 **installment in arrears, for the period from the date that default**  
89 **in the payment of such installment occurs, to the date that payment**  
90 **of such installment is made; or, if the maturity of the unpaid bal-**  
91 **ance of the loan is accelerated as provided by this section, to the**  
92 **date upon which such acceleration takes place. In lieu of providing**  
93 **for interest pursuant to this paragraph (3), such instrument may**  
94 **provide that, on any installment in arrears for more than 15 days,**  
95 **the bank may make a late charge which shall not exceed 5% of such**  
96 **installment, or \$5.00, whichever is the lesser; provided, (a) that**  
97 **the total of such late charges shall not exceed \$15.00 in any one 12-**  
98 **month period, and (b) that only one such late charge shall be made**  
99 **on any one installment; and (c) that no such late charge shall be**  
100 **made upon any installment scheduled, by the terms of such instru-**  
101 **ment, to fall due upon a date subsequent to the date upon which the**  
102 **maturity of the unpaid balance of the loan is accelerated as pro-**  
103 **vided by this section;]**

104 *(3) on any installment of a precomputed installment loan*  
105 *in arrears for more than 15 days, the bank may make a late*  
106 *charge which shall not exceed 5% of such installment, or \$5.00,*  
107 *whichever is the lesser; provided, that only one such late charge*  
108 *shall be made on any one installment, and that no such late charge*  
109 *shall be made upon any installment scheduled, by the terms of such*  
110 *note or instrument, to fall due upon a date subsequent to the date*  
111 *upon which the maturity of the unpaid balance of the loan is*  
112 *accelerated as provided by this section;*

113 **(4) no person who is a party to the [instrument] note evidenc-**  
114 **ing the loan or to any instrument securing such loan shall be re-**  
115 **leased or discharged from liability to the bank by reason of the**  
116 **bank's extending the time for the payment of an installment or**

117 installments owing or due upon such loan, or by reason of the  
 118 bank's waiver of any term or condition of *such note* [the instru-  
 119 ment evidencing such loan,] or of the instrument [intended to  
 120 secure] *securing the* payment thereof;

121 (5) all parties to the [instrument] *note* evidencing the loan shall  
 122 waive presentation for payment, demand for payment, protest and  
 123 notice of protest, nonpayment, dishonor, and the bank's election  
 124-137 to accelerate the maturity of the unpaid balance of the loan.

138 C. [For the purposes of this section,

139 (1) "unpaid principal balance" of a loan means the face amount  
 140 of the note evidencing such loan, less the aggregate of all install-  
 141 ments paid thereon, plus the cost of any insurance paid for by the  
 142 bank pursuant to paragraph (2) of subsection A. of this section,  
 143 after crediting against such cost the amount of the return premium,  
 144 if any, received by the bank on cancellation of prior insurance  
 145 paid for by the borrower or the cost of which was retained out of  
 146 the proceeds of the loan;

147 (2) "unpaid balance" of a loan means the unpaid principal  
 148 balance of such loan, plus unpaid interest and late charges, if any.]  
 149 (*Deleted by amendment.*)

1 4. Section 56 of P. L. 1948, c. 67 (C. 17:9A-56) is amended to  
 2 read as follows:

3 56. Rebates on prepayment.

4 A. When the unpaid balance owing upon a *precomputed* loan  
 5 [to which this article applies] is repaid in full or the maturity of  
 6 the unpaid balance of such loan is accelerated before the date  
 7 scheduled for the payment of the final installment, the bank shall  
 8 allow a credit on account of the *precomputed* interest [taken in  
 9 advance], the amount of which shall not be less than the amount  
 10 determined by the application of the formula  $C = AN \div D$  ("*the*  
 11 *rule of 78's*") in which "C" represents the amount of the credit  
 12 to be given; "A" represents the amount of the *precomputed*  
 13 interest [taken in advance]; "D" is determined by ascribing to  
 14 each [payment-period] *month* included in the period for which  
 15 interest was [taken in advance,] *precomputed* reckoning from the  
 16 day upon which the loan was made, the cardinal number descriptive  
 17 of the number of [payment-periods] *months* scheduled, by the  
 18 terms of the loan, to elapse from the beginning of each such [pay-  
 19 ment-period,] *month* to the date to which interest was [taken in  
 20 advance] *precomputed*, and the total of all the cardinal numbers  
 21 so ascribed constitutes the quantity "D"; and "N" represents  
 22 the difference between the quantity "D" and the total of all the

23 cardinal numbers ascribed to **the payment-periods** *months* which  
 24 have elapsed, in whole or in part, from the **making** *date* of the  
 25 loan, to the day upon which such repayment is made, or to the day  
 26 upon which the maturity of the unpaid balance of such loan is  
 27 accelerated as the case may be.

28 B. The commissioner may prepare and distribute to such banks  
 29 as shall make a request therefor, a schedule or schedules based  
 30 upon the formula specified in subsection A. of this section, for  
 31 use in determining the credit to be allowed pursuant to such sub-  
 32 section, and allowances of interest made as provided in such  
 33 schedule shall constitute a complete compliance with such subsec-  
 34 tion. A copy of such schedule, duly certified by the commissioner,  
 35 shall be evidence in all courts and places.

36 C. This section shall not apply where the amount of the credit  
 37 to be allowed is less than \$1.00.

38 *D. The unpaid balance of a nonprecomputed loan may be paid*  
 39 *in full at any time without penalty.*

1 5. Section 57 of P. L. 1948, c. 67 (C. 17:9A-57) is amended to  
 2 read as follows:

3 57. Statement on instrument.

4 Every **instrument** *note* evidencing **a** *an installment* loan  
 5 **made pursuant to this article** shall contain a statement that such  
 6 loan was made pursuant to this article. If this article or any sec-  
 7 tion hereof shall be amended, no reference to such amendment  
 8 need be made in such statement.

1 6. Section 58 of P. L. 1948, c. 67 (C. 17:9A-58) is amended to  
 2 read as follows:

3 58. Exempt transactions.

4 Nothing in this article applies to

5 (1) *any loan or extension of credit which a bank may make pur-*  
 6 *suant to any other law of this State or any regulation promulgated*  
 7 *pursuant to such law, nor does this article apply to any loan or*  
 8 *other extension of credit otherwise authorized or not prohibited*  
 9 *by law, or otherwise enforceable at law;*

10 (2) *any loan which bears interest at a rate not in excess of* **6%**  
 11 *per annum* **a rate authorized pursuant to R. S. 31:1-1 computed**  
 12 *upon its unpaid balances; or*

13 (3) *any instrument or obligation, lawful upon its face, which is*  
 14 *purchased or discounted by a bank pursuant to paragraph (1) of*  
 15 *section 25, and which represents, evidences, or secures an existing*  
 16 *indebtedness having its inception in a transaction to which the*  
 17 *bank is not a party; regardless whether such instrument or obliga-*

18 tion is acquired by the bank with or without rights of recourse  
19 against the person from whom the bank obtains such instrument  
20 through such purchase or discount. A bank shall not be deemed  
21 to be a party to a transaction within the meaning of this paragraph,  
22 because prior to the inception of rights in any instrument, obliga-  
23 tion or indebtedness purchased or discount by it, the bank  
24 approves the credit of any person liable for the payment of such  
25 instrument, obligation or indebtedness at the request of the person  
26 who supplies the consideration which supports the liability of any  
27 person to pay such instrument, obligation or indebtedness.

1 7. Section 59 of P. L. 1948, c. 67 (C. 17:9A-59) is amended to  
2 read as follows:

3 59. Penalty for violations.

4 If a bank knowingly violates any provision of this article in the  
5 making or collection of **[a]** *an installment* loan **[to which this**  
6 **article applies]**, the bank shall forfeit the entire interest which  
7 the note or other evidence of debt carries with it, or which has  
8 been agreed to be paid thereon, and the borrower, or his legal  
9 representatives, may recover back, in an action against the bank,  
10 twice the amount of interest *received* **[paid to or retained]** by the  
11 bank on such loan; provided, such action is commenced within 2  
12 years from the date such violation occurred. The amount of any  
13 interest credit allowed pursuant to section 56 shall not be deemed  
14 to be interest **[paid to or retained]** *received* by the bank for the  
15 purposes of this section.

1 8. This act shall take effect on the sixtieth day following its  
2 enactment.

ASSEMBLY COMMERCE, BANKING AND INSURANCE  
COMMITTEE

STATEMENT TO

**SENATE, No. 92**

with Assembly committee amendments

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**STATE OF NEW JERSEY**

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DATED: MAY 12, 1976

This legislation revises Article 12 of the Banking Act of 1948, which governs the making of installment loans. The bill defines installment loans as those loans which are required to be paid in two or more installments, upon which interest is contracted for at a rate not less than that provided by R. S. 31-1 et seq. The amount of such loans may not exceed \$10,000.00 and the term of the loan may not exceed 7 years and 3 months.

The legislation also redefines "Class I installment loans" and "Class II installment loans." At present, Article 12 of the Banking Act of 1948 defines Class II loans as property improvement loans, and Class I loans as installment loans which are not property improvement loans. This legislation defines "Class I installment loans" as those installment loans which are either unsecured or secured by an interest in tangible personal property. Class II installment loans are those installment loans which are secured by an interest in real property.

This bill would also modify existing law by providing several alternatives with regard to the method of contracting for and computing interest. The bill provides that the amount of interest should be calculated according to the actuarial method, by which the payment is applied to interest and then to the reduction of the principal, and calculated so as not to exceed the legal rate on the unpaid balance of the principal. The interest may be contracted for by the add-on method (adding the interest to the face amount of the loan) or by discounting (taking the interest in advance). The bill makes provision for precomputing the amount of interest to be paid on the loan throughout the term of the loan. Loans may also be nonprecomputed, in which case the charging of interest is determined by the day upon which the payment is received.

This legislation would modify the interest rate ceiling governing Article 12 installment loans. Existing law provides for utilization of the constant ratio method to determine the amount of interest charged on a loan, not to exceed 11.784% on three year loans and 9.716% on property improvement loans, contracted for as add-on or discount. Senate Bill No. 92 would establish a rate ceiling of 12% on Class I and



Class II installment loans, giving to the Commissioner of Banking the authority to raise the rate on Class II loans to 15% per annum by regulation after consultation with the Banking Advisory Board.

The legislation provides that repayment of the loan shall be in payments to be made at monthly intervals in substantially equal amounts, while the last payment may be in an amount twice the amount of a preceding installment, plus \$1.00. This "balloon" payment at the end has the effect of reducing the amount of the monthly payment although it could result in the payment of slightly more interest. The contract may provide that three months may elapse between the date of the loan and the date scheduled for the first installment. Lenders are provided the option of scheduling payments less frequently than monthly, although payments must be made at least quarterly. No lender may make multiple loans to any one person if in the aggregate such loans in any one class exceeds \$10,000.00.

Lenders may defer the scheduled due date or dates of any installment, and, may make an additional charge of 1% per month computed on the amount of the deferred payment. A lender may charge a late fee equal to 5% of any installment or \$5.00, whichever is less, on any installment of a precomputed loan which is in arrears for more than 15 days. In the case of a precomputed loan a borrower is entitled to a credit of interest due if the loan is paid before maturity, such credit would be calculated according to the "rule of 78's." The bill provides also that the entire unpaid balance of the loan may become due and payable upon default in the payment of an installment on its due date, or upon default in any other term or provision contained in any note evidencing an installment loan.

The Commerce, Banking and Insurance Committee has amended this legislation to place a 12% ceiling on Class I loans. The commissioner would not thus be given the discretionary authority to adjust the rate as high as 15% as he would in the case of Class II loans. The committee views Class II loans as being comparable to loans made pursuant to the Secondary Mortgage Loan Act (P. L. 1970, c. 205, C. 17:11A-34 et seq.) which permits the interest rate on secondary mortgages to be adjusted by the commissioner.

This legislation revises existing law with regard to installment lending in order to make its provisions consonant with modern banking practice and its interest rate limitations more realistic in view of the economic changes and interest rate fluctuations of the past several years. In permitting the commissioner to adjust the interest rate ceiling on Class II loans, using the economic indicators specified in Section 1. of the bill as a guideline, the committee hopes that the availability of funds to borrowers during periods of high interest rates will thus be assured.

SENATE LABOR, INDUSTRY AND  
PROFESSIONS COMMITTEE

STATEMENT TO  
**SENATE, No. 92**

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**STATE OF NEW JERSEY**

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DATED: MARCH 31, 1976

Senate Bill No. 92 would make substantial amendments to Article 12 of the Banking Act with respect, primarily, to installment loans and interest thereon.

The primary impact would be to permit commercial and savings banks to make installment loans of up to \$10,000.00 at an annual rate of 12% over a period of up to seven (7) years, three (3) months. The Banking Commissioner would be empowered to adjust the interest rate up to 15% per year, with the advice of a special advisory board.

Present law limits such loans to a maximum of \$5,500.00 or \$7,500.00 when at least \$2,000.00 of which is for property improvement. The permissible interest rate is 11.784%, based on a complex formula, over 37 months, while the permissible rate on property improvement loans is 9.716%. Rates have been unchanged since 1936. The maximum period of maturity under present law is 3 years, 1 month, except for property improvement loans which is 5 years, 1 month.

Senate Bill No. 92 would also establish the categories of "Class I" and "Class II" installment loans, the former being installment loans secured by tangible personal property and the latter being installment loans secured by real property. This would have the effect of permitting banks to make secondary mortgage loans at rates competitive with loans under the Secondary Mortgage Act, but without search fees and closing costs.

The calculation of interest under Senate No. 92 is based on an actuarial method. Simple interest calculation would be made on the declining balance of the loan wherein the allocation between principal and interest is determined by the day payments are received. Thus, a borrower would be able to reduce the amount of interest paid by making payments before the due date. Also, it would permit interest to be pre-computed in the same manner as present law, so long as the resulting rate does not exceed the ceiling.

With respect to late charges, the bill would allow 5% or \$5.00, whichever is lesser, after a loan is in arrears for 15 days. Present law authorizes a maximum of \$15.00 per year in late charges on precomputed loans, whereas this bill would eliminate said charge.