

17:9A-35

LEGISLATIVE HISTORY CHECKLIST

NJSA 17:9A-35
Laws of 1975 Chapter 79
Bill No. A1186
Sponsor(s) Garrubho & Others
Date Introduced April 11, 1974
Committee: Assembly Banking & Insurance
Senate Labor, Industry & Professions
Amended during passage ~~Yes~~ No
Date of passage: Assembly Oct. 21, 1974
Senate Feb. 10, 1975
Date of approval May 2, 1975
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

10/4/76
JUN 1977

CHAPTER 79 LAWS OF N. J. 1975
APPROVED 5-2-75

ASSEMBLY, No. 1486

STATE OF NEW JERSEY

INTRODUCED APRIL 4, 1974

By Assemblymen GARRUBBO, KEEGAN, MARTIN, GREGORIO,
D'AMBROSA, KOZLOSKI, Assemblywoman TOTARO and
Assemblyman HERMAN

Referred to Committee on Banking and Insurance

AN ACT to amend "An act concerning banking and banking institu-
tions (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 35 of P. L. 1948, c. 67 (C. 17:9A-35) is amended to
2 read as follows:

3 35. Trust funds.

4 A. All moneys, securities and other property held by a quali-
5 fied bank in fiduciary capacities pursuant to paragraphs (5), (6),
6 (7), (8), (9) and (10) of section 28, shall be kept separate and
7 apart from the moneys, securities and other property belonging
8 to such bank, and such moneys, securities and other property shall
9 not be liable for the debts or obligations of the bank; except that
10 moneys held by a qualified bank in one or more such fiduciary
11 capacities, awaiting investment or disbursement, may be deposited
12 in a single account or in separate accounts with itself or with any
13 other banking institution or with any bank, trust company or na-
14 tional banking association having its principal office in a contigu-
15 ous State. Moneys so deposited with itself may be used by the
16 bank in the conduct of its business. Securities held by a qualified
17 bank in fiduciary capacities may also be deposited with any other
18 banking institution, or with any bank, trust company or national
19 banking association having its principal office in a contiguous
20 state. The duties of the depository in respect to securities so
21 deposited with it shall be confined to the safekeeping thereof, the
22 collection of interest thereon for the account of the depositing
23 qualified bank, and the performance of such other clerical or

24 ministerial acts as the depositing qualified bank may from time
25 to time request. Nothing herein contained shall be construed as
26 relieving the depositing qualified bank from the duty to account
27 for all securities deposited as authorized by this subsection.

28 B. In the event of the insolvency of a qualified bank which has
29 deposited such moneys with itself, such bank in such fiduciary
30 capacities shall have claims against the assets of the bank for
31 moneys so deposited, preferred over claims not otherwise entitled
32 to preference, but subordinate to all other claims which shall be
33 entitled to preference. In the event of the insolvency of any other
34 banking institution or of any bank, trust company or national bank-
35 ing association having its principal office in a contiguous state,
36 in which such moneys shall have been deposited, a qualified
37 bank which shall have made such deposits shall be liable for the
38 amount of such deposits as if such deposits had been made with it,
39 and shall be subrogated to its claims as fiduciary against the in-
40 solvent banking institution, bank, trust company or national bank-
41 ing association, in which such deposits shall have been made.

42 C. *Notwithstanding any other provision of law, any qualified*
43 *bank holding securities in a trust estate, or any banking institution*
44 *holding securities as a custodian or managing agent, or as custo-*
45 *dian for a fiduciary, is authorized to deposit or arrange for the de-*
46 *posit with the Federal reserve bank in its district, any securities*
47 *so held the principal and interest of which the United States of*
48 *America or any department, agency or instrumentality thereof has*
49 *agreed to pay, or has guaranteed payment. Securities so deposited*
50 *shall be credited to one or more accounts on the books of such*
51 *Federal reserve bank in the name of such qualified bank or such*
52 *banking institution, to be designated fiduciary or safekeeping*
53 *accounts, to which other similar securities may be deposited. The*
54 *records of such qualified bank and the records of a banking institu-*
55 *tion acting as custodian, as managing agent or as custodian for a*
56 *fiduciary, shall at all times show the name of the party for whose*
57 *account the securities are so deposited. Ownership of, and other*
58 *interests in, such securities may be transferred by bookkeeping*
59 *entry on the books of such Federal reserve bank without physical*
60 *delivery of certificates representing such securities. A qualified*
61 *bank or banking institution depositing securities pursuant to this*
62 *section shall be subject to such rules and regulations as, in the case*
63 *of State-chartered institutions the commissioner, and in the case*
64 *of national banks, the comptroller of the currency, may from time*
65 *to time issue. A qualified bank or banking institution acting as*

66 *custodian for a fiduciary shall, on demand by the fiduciary, certify*
67 *in writing to the fiduciary the securities so deposited by such*
68 *qualified bank or banking institution with such Federal reserve bank*
69 *for the account of such fiduciary. A qualified bank shall, on demand*
70 *by any party to a judicial proceeding for the settlement of such*
71 *qualified bank's account as fiduciary, or on demand by the attorney*
72 *for such party, certify in writing to such party the securities*
73 *deposited by such qualified bank with such Federal reserve bank*
74 *for its account as fiduciary. This subsection shall apply to any*
75 *qualified bank or banking institution holding securities in a fidu-*
76 *ciary, custodial or management capacity, acting on the effective*
77 *date of this act or who thereafter may act regardless of the date*
78 *of the agreement, instrument or court order pursuant to which such*
79 *qualified bank or banking institution is acting. Nothing contained*
80 *in this subsection shall be construed as relieving a qualified bank*
81 *or banking institution depositing securities as authorized by this*
82 *subsection from the duty to account for all securities so deposited.*

1 2. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to eliminate the risks inherent in the circulation of bearer U.S. Government securities. Banks may now deposit with Federal reserve banks on a book entry basis U.S. Government securities held for their own accounts. This bill would permit them so to deposit U.S. Government securities held as fiduciaries or as custodians for fiduciaries. It would be strange for statute law to require banks to hold trust assets less securely than the banks hold their own assets.