

17:9A-181

LEGISLATIVE HISTORY CHECKLIST

NJSA 17:9A-181

Laws of 1975 Chapter 258

Bill No. A1556

Sponsor(s) Van Wagner & Others

Date Introduced April 16, 1974

Committee: Assembly Banking & Insurance

Senate Labor, Industry & Professions

Amended during passage Yes ~~No~~ Amendment during passage denoted by asterisks

Date of passage: Assembly July 29, 1974

Senate May 19, 1975

Date of approval December 10, 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

DEPOSITORY COPY  
Do Not Remove From Library

10/4/76

JUN 1977

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1556

STATE OF NEW JERSEY

INTRODUCED APRIL 16, 1974

By Assemblymen VAN WAGNER, FLYNN, WORTHINGTON,  
SALKIND, MARTIN and BORNHEIMER

Referred to Committee on Banking and Insurance

AN ACT to amend "The Banking Act 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 181 of P. L. 1948, c. 67 (C. 17:9A-181) is amended to  
2 read as follows:

3 181. Mortgage loans.

4 A. 1. A savings bank may make or invest in mortgage loans in  
5 the manner and subject to the limitations prescribed by this section.  
6 For the purposes of this section, "mortgage loan" shall include  
7 every indebtedness secured by mortgage on real property, or on a  
8 lease of the fee of real property (in any case in which such lease is  
9 lawful security for such mortgage loan), except as otherwise pro-  
10 vided by subsection Q of this section, and a savings bank shall be  
11 deemed to have made a mortgage loan when

12 (a) It lends or participates in lending money to a borrower upon  
13 the security of real property; or

14 (b) It acquires, by purchase or otherwise, a mortgage loan or  
15 any share or part of or interest in a mortgage loan which is not  
16 subordinate to any share or part thereof or interest therein held by  
17 any other person.

18 A savings bank may sell, assign or otherwise dispose of a share  
19 or part of or interest in a mortgage loan held by it to any other  
20 person.

21 A. 2. For all purposes of compliance with the applicable provi-  
22 sions and restrictions of subsections D, E, F and G of this section  
23 as to the percentage of the mortgage loan to the appraised value of  
24 the mortgaged property, and the term of and rate of amortization  
25 of such loan, the date of the acquisition by a savings bank of a

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

26 mortgage loan or a share or part thereof or interest therein shall,  
27 as respects such savings bank, be deemed to be the date as of which  
28 the mortgage loan was made and the unpaid amount of the principal  
29 then due shall be deemed to be the amount of such mortgage loan.

30 B. No savings bank shall make a mortgage loan at any time when  
31 the total cost of acquisition by the savings bank of all real property  
32 owned by it, other than real property held for the purposes specified  
33 in subparagraph (a) of paragraph (5) of section 24, and the total of  
34 all principal balances owing to the savings bank on mortgage loans,  
35 less all write-offs and reserves with respect to such real property  
36 and mortgage loans, together exceeds, or by the making of such loan  
37 will exceed, 80% of its deposits. For the purposes of this subsec-  
38 tion, principal balances owing on mortgage loans made pursuant to  
39 subsection Q (1) of this section shall, only to the extent of the un-  
40 guaranteed portion of such balances, and loans made pursuant to  
41 subsection Q (2) of this section shall, only to the extent of 50% of  
42 such balances, be included in the total of all principal balances  
43 owing to the savings bank on mortgage loans; *and for the purposes*  
44 *of this subsection, principal balances owing on mortgage loans made*  
45 *by the use of funds received by the bank pursuant to the provisions*  
46 *of the "New Jersey Mortgage Finance Agency Law," (P. L. 1970,*  
47 *c. 38, C. 17:1B-4 et seq.), shall, only to the extent of 50% of such*  
48 *balances, be included in the total of all principal balances, owing to*  
49 *the savings bank on mortgage loans.*

50 C. Every mortgage loan shall be evidenced by a note or bond,  
51 and shall be secured by a mortgage on the fee of real property  
52 located within this State, or, if outside this State, upon the fee of  
53 real property located within [50] \* [5] \* 50\* miles of the border of  
54 this State. Every mortgage shall be certified to be a first lien by an  
55 attorney at law of the state in which the real property is located, or  
56 certified or guaranteed to be a first lien by a corporation authorized  
57 to guarantee titles to land in such state. For the purposes of this  
58 section, a mortgage shall be deemed to be a first lien, notwithstand-  
59 ing the existence of a prior mortgage or mortgages held by the  
60 savings bank, or a lien for current taxes or assessments not due or  
61 payable at the time [of] the loan is made, and notwithstanding the  
62 existence of leases, building restrictions, easements, encroachments,  
63 or covenants which, in the opinion of an officer of the savings bank  
64 designated for that purpose by the board of managers, do not  
65 materially lessen the value of the real property to be mortgaged.

66 D. When the real property offered as security for a mortgage  
67 loan consists of a lot of land upon which there is one or more one-  
68 family dwellings including appropriate garages or other outbuild-

69 ings, if any, or upon which such dwelling or dwellings, garages or  
70 outbuildings are in the course of construction or are to be con-  
71 structed, the amount of the mortgage loan shall not exceed (a) 75%  
72 of the appraised value of the real property, or 2% of the deposits  
73 of the savings bank, whichever is lesser; or (b) 80% of the  
74 appraised value of the real property, or \$35,000.00, whichever is  
75 lesser; or (c) 90% of the appraised value of the real property, or  
76 \$25,000.00, whichever is lesser, provided that the dwelling or dwell-  
77 ings are not more than 10 years old.

78 E. When the real property offered as security for a mortgage  
79 loan consists of a lot of land upon which there is one or more two-,  
80 three-, or four-family dwellings including appropriate garages or  
81 other outbuildings, if any, or upon which such a dwelling or dwell-  
82 ings and appropriate garages or other outbuildings are in the course  
83 of construction or are to be constructed, the amount of the mortgage  
84 loan shall not exceed 80% of the first \$30,000.00 of the appraised  
85 value of the real property, plus 50% of the excess, if any, of such  
86 appraised value over \$30,000.00.

87 F. The instrument evidencing a mortgage loan made pursuant to  
88 either subsection D or subsection E of this section shall require  
89 that

- 90 (1) interest shall be paid on such loan monthly, and that equal  
91 monthly payments be made in reduction of such loan of an annual  
92 rate equal to at least  $3\frac{1}{8}\%$  of the original amount of such loan; or
- 93 (2) that a constant sum be paid monthly in an amount sufficient  
94 for current interest and for the payment of the loan in full in not  
95 more than 40 years and 1 month from the making of such loan.

96 G. When the real property offered as security for a mortgage  
97 loan consists of a lot of land upon which there is a building or build-  
98 ings other than dwellings of the nature described in subsections D  
99 and E of this section, or upon which such other buildings are in the  
100 course of construction or are to be constructed, or when such land  
101 is paved for parking lot purposes, the amount of the mortgage loan  
102 shall not exceed 75% of appraised value of such real property. The  
103 instrument evidencing a mortgage loan made pursuant to this sub-  
104 section shall require that the loan be repaid in full in not more than  
105 25 years and 1 month from the date it is made; and (a) if the  
106 amount of such loan, when made, exceeds 50% of the appraised  
107 value of the real property, that payments shall be made in reduction  
108 thereof at least semiannually, at an annual rate equal to at least  
109 1% of the original amount of such loan; or (b) if the amount of such  
110 loan, when made, does not exceed 50% of the appraised value of the

111 real property, that payments shall be made in reduction thereof at  
112 least semiannually, at an annual rate equal to at least  $\frac{1}{2}\%$  of the  
113 original amount of such loan. When, however, the amount of such  
114 loan does not, when made, exceed 50% of the appraised value of  
115 such real property, and the instrument evidencing such loan re-  
116 quires that it be paid in full in not more than 5 years and 1 month  
117 from the date it is made, the instrument need not require that any  
118 payment be made in reduction of such loan prior to its maturity  
119 date. Notwithstanding the limitations prescribed by subsections D  
120 and E and hereinabove in this section, a savings bank may make a  
121 mortgage loan secured by a lot of land or two or more lots of land,  
122 contiguous or not, upon each of which there is a building or build-  
123 ings, or upon each of which a building or buildings are in the course  
124 of construction or are to be constructed. The limitations of this  
125 section governing the term of the loan, rate of amortization, and the  
126 percentage of the mortgage loan to the appraised value of each type  
127 of building, including land, shall apply. No loan shall be made  
128 under subsections D, E, F or G hereof to any one person or on  
129 any one property if the loan shall exceed 15% of the surplus and  
130 reserves of the savings bank, or \$50,000.00, whichever is greater.

131 H. When the real property offered as security for a mortgage  
132 loan is of the nature described in subsection D or E of this section,  
133 and the amount of the loan does not exceed  $66\frac{2}{3}\%$  of the appraised  
134 value of such real property, the instrument evidencing such loan  
135 shall be sufficient if it conforms to the requirements of either sub-  
136 section F or subsection G of this section.

137 I. A mortgage loan may be made for the purpose of enabling a  
138 borrower to construct a building or buildings upon real property  
139 owned by him, and, in such a case, the appraised value of the real  
140 property shall include the value of the building or buildings to be  
141 constructed, but at no time shall a greater sum be advanced on  
142 account of such loan than, in the opinion of (1) the appraisers here-  
143 inafter provided for, or (2) one of such appraisers and an officer of  
144 the savings bank designated for that purpose by the board of  
145 managers, is warranted by the state of completion of the buildings  
146 in process of construction. For the purposes of compliance with the  
147 applicable requirements of subsection F or G of this section as to  
148 the term of and the rate of amortization of a loan made pursuant  
149 to this section, such loans shall be deemed to have been made when  
150 the final advance shall be made to the borrower on such loan, or 18  
151 months from the date of the mortgage securing such loan, whichever  
152 is earlier.

153 J. When the real property offered as security for a mortgage

154 loan consists of unimproved land, and the proceeds of such loan are  
155 not to be used to construct a building on such land, the amount of  
156 such loan shall not exceed 40% of the appraised value of such real  
157 property. When the real property offered as security for a mort-  
158 gage loan consists of unimproved land, and the proceeds of such  
159 loan are to be used for improvements to the land, the amount of  
160 such loan shall not exceed 75% of the appraised value of such real  
161 property. The instrument evidencing a loan made pursuant to this  
162 subsection shall require that such loan be paid in full in not more  
163 than 10 years and 1 month from the date it is made. No loan made  
164 pursuant to this subsection shall exceed \$10,000.00, or  $\frac{1}{10}$  of 1% of  
165 the deposits of the savings bank, whichever is greater; nor shall any  
166 loan be made at any time when the total of all such loans exceeds,  
167 or if the making of such loan would cause such total to exceed 1%  
168 of the deposits of the savings bank.

169 K. No mortgage loan shall be made except upon a written certi-  
170 fication signed by at least two persons, each of whom shall be either  
171 a manager of the bank or an appraiser appointed by its board of  
172 managers. In the case of a mortgage loan secured by a mortgage  
173 upon real property, such certification shall state the opinion of such  
174 persons as to the value of the land and the improvements thereon or  
175 to be erected thereon and the character of such improvements. In  
176 the case of a mortgage loan secured by a mortgage upon a lease of  
177 the fee of real property, such certification shall state the opinion  
178 of such persons as to the value of the leasehold interest to be subject  
179 to the mortgage, including the leasehold interest in the improve-  
180 ments erected or to be erected upon the leased property and the  
181 character of such improvements. Such certification shall be filed  
182 with the records of the bank, and shall be preserved until the sav-  
183 ings bank has no interest, as mortgagee or otherwise, in the real  
184 property.

185 L. Purchase money mortgage loans made by a savings bank on  
186 the sale of real property owned by it shall not be subject to the  
187 preceding subsections or to subsection P of this section, except that  
188 such loans shall be included in determining whether the total amount  
189 of mortgage loans held by a savings bank exceeds 80% of its  
190 deposits.

191 M. No savings bank shall make a mortgage loan secured by a  
192 mortgage upon a lease of the fee of real property unless

193 (1) the leased property is located within this State or, if outside  
194 this State, the leased property is located within 50 miles of the  
195 border of this State;

196 (2) the leased property shall consist of improved real property,  
197 including farm lands, or unimproved real property if the proceeds  
198 of such loan shall be used for the purpose of erecting improvements  
199 thereon;

200 (3) the mortgage securing such loan shall constitute a first lien  
201 on a lease of the fee of real property, which fee is not subject to any  
202 prior lien; the fee shall be deemed not subject to any prior lien  
203 notwithstanding the existence of liens of taxes which are not  
204 delinquent, building restrictions or other restrictive covenants or  
205 conditions, joint driveways, sewer rights, rights in walls, rights-of-  
206 way or other easements, or encroachments, which the persons sign-  
207 ing the certificate provided for in subsection K of this section  
208 report in their opinion do not materially affect the security for the  
209 mortgage loan. Every mortgage shall be certified to be such a first  
210 lien by an attorney at law of the state in which the real property is  
211 located, or certified or guaranteed to be such a first lien by a  
212 corporation authorized to guarantee titles to land in such state;

213 (4) such loan shall not exceed  $66\frac{2}{3}\%$  of the appraised value of  
214 the leasehold interest subject to the mortgage, including the lease-  
215 hold interest in the improvements erected upon the mortgaged  
216 property, or to be erected thereon wholly or partly with the pro-  
217 ceeds of the mortgage loan; and

218 (5) the instrument evidencing the loan shall require that pay-  
219 ment be made on account of the principal amount of such loan at an  
220 annual rate sufficient to repay such loan not later than 1 year prior  
221 to the expiration of the lease.

222 N. The instrument evidencing a mortgage loan may be in such  
223 form, and may contain such provisions, not inconsistent with law,  
224 as the savings bank may choose to insert for the protection of its  
225 lien and the preservation of its interest in the real property mort-  
226 gaged to it.

227 O. Notwithstanding the limitations prescribed by the preceding  
228 subsections or by subsection P of this section, a savings bank may

229 (1) for the purposes of preventing or mitigating loss, or of pre-  
230 serving the lien of its mortgage, or of conserving the value of the  
231 real property affected by its mortgage, (a) extend the time for the  
232 payment of principal or interest, (b) modify or waive any of the  
233 terms or conditions of the instrument evidencing a mortgage loan,  
234 (c) settle or compromise all or part of the amount due or to grow  
235 due on a mortgage loan, (d) sell or assign the mortgage loan, or a  
236 share or part thereof or interest therein, for such consideration as  
237 it shall deem proper, and (e) advance funds for the payment of any  
238 tax, lien, charge or claim whatsoever; and

239 (2) make a loan in addition to an existing mortgage loan or  
240 loans held by it, upon the security of the same real property and  
241 secured by the existing mortgage or mortgages, in an amount not  
242 to exceed the difference between the balance due on the existing  
243 mortgage or mortgages and the original amount thereof, or the sum  
244 of \$10,000.00, whichever is less; provided, however, that no such  
245 additional loan shall be made which shall increase the total amount  
246 due upon such mortgages over the amount which could be loaned  
247 upon the security of such real property. Such additional loan shall  
248 be repaid in equal monthly installments, beginning within 1 year  
249 from the date of such loan, with the payments adjusted so that the  
250 additional loan shall be repaid in full either before or at the ma-  
251 turity of the existing mortgage. If the unexpired term of such  
252 mortgage or mortgages shall have been reduced to 10 years or less  
253 such term may be extended for an additional period of not more  
254 than 10 years. Adjustment of payments and extension of mortgage  
255 terms pursuant to this section shall comply with the provisions of  
256 subsection F, G or H of this section. If so provided in the original  
257 mortgage or a supplement or amendment thereto, persons who  
258 acquire any rights in or liens upon the mortgaged real property  
259 subsequent to the recording of the original mortgage or such  
260 supplement or amendment, as the case may be, shall hold such  
261 rights and liens subject to the prior lien of the original mortgage  
262 and such supplement or amendment, if any, as security for such  
263 additional loan; and in such case, no title certificate or insurance  
264 under subsection C of this section shall be required with respect  
265 to such additional loan.

266 P. Except as otherwise provided by this section, no savings bank  
267 shall make a mortgage loan if the making of such loan would cause  
268 the total of all unpaid balances of such loans held by the savings  
269 bank upon the security of the same real property or leasehold, to  
270 exceed the limitations imposed by this section upon the amount of a  
271 mortgage loan which may be made upon the security of such real  
272 property or such leasehold.

273 Q. A savings bank may invest in

274 (1) (a) veterans' loans, wherever located, made pursuant to Title  
275 III of the Act of Congress of June 22, 1944, known as the "Service-  
276 men's Readjustment Act of 1944," as amended, supplemented,  
277 revised, or recodified from time to time, which the Administrator  
278 of Veterans' Affairs or other officer or agency which succeeds to his  
279 powers and functions under said act has insured or guaranteed or  
280 has made a commitment to insure or guarantee, to the extent and in



281 the manner provided in said act or the regulations made there-  
282 under; and

283 (b) veterans' loans, wherever located, made and insured or  
284 guaranteed in part as provided in paragraph (1) (a) of this sub-  
285 section of this section, and, as to the balance thereof, insured or  
286 guaranteed by an insurer or guarantor named or described in para-  
287 graph (2) of this subsection of this section.

288 (c) the provisions and restrictions contained in this section,  
289 except those relating to the percentage of the mortgage loan to the  
290 appraised value of the real property, the location of the real prop-  
291 erty, the term of the loan and the rate of amortization, shall apply  
292 to investments made pursuant to paragraph (1) of this subsection  
293 of this section, provided however that said loans and investments  
294 shall not be subject to the provisions of any law of this State pre-  
295 scribing or limiting the interest which may be taken upon such loans  
296 or investments.

297 (2) (a) mortgages or deeds of trust or other securities of the  
298 character of mortgages which are first liens on the fee of real  
299 property or a lease of the fee of real property, wherever located,  
300 which (i) the United States, or (ii) the Federal Housing Com-  
301 missioner under the Act of Congress of June 27, 1934, known as  
302 the "National Housing Act," as amended, supplemented, revised  
303 or recodified from time to time, or other officer or agency which  
304 succeeds to his powers and functions, or (iii) the State of New  
305 Jersey or an officer or agency thereof, or (iv) any other officer or  
306 agency of the United States or of this State which the commissioner  
307 shall have approved for the purposes of this section as an insurer  
308 or guarantor, has fully insured or guaranteed or made a commit-  
309 ment to fully insure or guarantee.

310 (b) mortgages or deeds of trust or other securities made pur-  
311 suant to paragraph 2 (a) of this subsection of this section shall  
312 not be subject to the provisions and restrictions of this section,  
313 except that they shall be included in determining whether total  
314 mortgage investments are within the limitation prescribed by sub-  
315 section B of this section, provided, however, that said mortgages  
316 or deeds of trust or other securities shall be not subject to the  
317 provisions of any law of this State prescribing or limiting the  
318 interest which may be taken upon such loans or investments.

319 R. The commissioner may, from time to time, with the concur-  
320 rence of the banking advisory board, make, alter and rescind regula-  
321 tions:

322 (1) authorizing savings banks to make mortgage loans or

323 specified types or classes of mortgage loans (a) which exceed the  
324 specified percentages of the appraised value of the mortgaged  
325 property; (b) which mature later than the specified periods from  
326 their date; (c) which require smaller annual payments on account  
327 of the principal amounts thereof than those specified in this section ;  
328 and (d) which provide for equal monthly payments each applicable  
329 to principal and interest in amounts sufficient to pay current  
330 interest on and to repay the amount of the loan in such number of  
331 years more than 40, but not more than 45, as the regulation may  
332 specify ;

333 (2) increasing the percentage of deposits of savings banks which  
334 savings banks may invest in mortgage loans ;

335 (3) increasing the percentage of principal balances owing on  
336 mortgage loans referred to in subsection Q, which shall not be  
337 included in the total of all principal balances owing on mortgage  
338 loans for the purpose of subsection B, or

339 (4) eliminating entirely the principal balances owing on such  
340 mortgage loans from such total of all principal balances.

1 2. This act shall take effect immediately.

323 specified types or classes of mortgage loans (a) which exceed the  
324 specified percentages of the appraised value of the mortgaged  
325 property; (b) which mature later than the specified periods from  
326 their date; (c) which require smaller annual payments on account  
327 of the principal amounts thereof than those specified in this section;  
328 and (d) which provide for equal monthly payments each applicable  
329 to principal and interest in amounts sufficient to pay current  
330 interest on and to repay the amount of the loan in such number of  
331 years more than 40, but not more than 45, as the regulation may  
332 specify;

333 (2) increasing the percentage of deposits of savings banks which  
334 savings banks may invest in mortgage loans;

335 (3) increasing the percentage of principal balances owing on  
336 mortgage loans referred to in subsection Q, which shall not be  
337 included in the total of all principal balances owing on mortgage  
338 loans for the purpose of subsection B, or

339 (4) eliminating entirely the principal balances owing on such  
340 mortgage loans from such total of all principal balances.

1 2. This act shall take effect immediately.

---

#### STATEMENT

This bill amends "The Banking Act of 1948" (P. L. 1948, c. 67, C. 17:9A-1 et seq.) to permit savings banks to omit 50% of the principal balances on mortgage loans made by the use of funds provided by the New Jersey Mortgage Finance Agency in computing the total of all principal balances owing to the savings bank on mortgage loans. Insofar as the total of all principal balances owing to the savings bank may not exceed 80% of its deposits, the amendment will have the effect of releasing additional money into the mortgage market from savings banks.

SENATE LABOR, INDUSTRY AND  
PROFESSIONS COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 1556**

[OFFICIAL COPY REPRINT]

---

**STATE OF NEW JERSEY**

---

DATED: APRIL 28, 1975

This bill amends "The Banking Act of 1948" (P. L. 1948, c. 67, C. 17:9A-1 et seq.) to permit savings banks to omit 50% of the principal balances on mortgage loans made by the use of funds provided by the New Jersey Mortgage Finance Agency in computing the total of all principal balances owing to the savings bank on mortgage loans. Insofar as the total of all principal balances owing to the savings bank may not exceed 80% of its deposits, the amendment will have the effect of releasing additional money into the mortgage market from savings banks.

FROM THE OFFICE OF THE GOVERNOR

DECEMBER 10, 1975

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

DICK CAMPBELL

Governor Brendan Byrne signed into law today two bills designed to increase the amount of mortgage money available to prospective home buyers.

One bill, A-1556, sponsored by Assemblyman Richard Van Wagner, D-Monmouth, permits savings banks to omit 50 per cent of the principal balances on mortgage loans made by the use of funds provided by the state Mortgage Finance Agency in computing the total of all principal balances owing to the bank on mortgage loans.

The other measure, A-1559, also sponsored by Assemblyman Van Wagner, provides the same exemption for commercial banks.

Present law prohibits savings and commercial banks from making mortgage loans in excess of 80 per cent of their deposits. Thus, the two bills will have the effect of increasing the amount of money available for mortgages.

"The effect of these bills will be to provide an economic stimulus," said Van Wagner. "This legislation is intended to do in the private sector what we are doing with the state Housing Finance Agency."

###