

17:9A-24

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LEGISLATIVE NOTES ON R.S. 17:9A-24
(Capital funds - Notes included)

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R.S. 17:9A-24(12):

Dept. of Banking. Advisory Opinion 1-1975. See 7 N.J.R. 95(b).
Dept. of Banking. Advisory Opinion 2-1975. See 7 N.J.R. 95(a).

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SENATE, No. 519

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 2, 1970

By Senators STOUT and SEARS

Referred to Committee on Banking

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 24 of chapter 67 of the laws of 1948 (C. 17:9A-24) is
2 amended to read as follows:

3 24. Powers of banks and savings banks.

4 Every bank and savings bank shall, subject to the provisions of
5 this act, have the following powers, whether or not such powers
6 are specifically set forth in its certificate of incorporation:

7 (1) to adopt a corporate seal, and to sue and be sued;

8 (2) to issue cashier's checks, treasurer's checks, and money
9 orders; to transmit funds; to guarantee signatures and endorse-
10 ments;

11 (3) to borrow money, and to pledge, mortgage or hypothecate its
12 real or personal property as security therefor, and to execute and
13 deliver all such instruments as may be necessary to evidence such
14 borrowing, pledge, mortgage, or hypothecation;

15 (4) to keep, maintain, and rent out for hire, at any location
16 occupied by its principal office or any branch office, safe deposit
17 boxes or other receptacles for the safekeeping of personal property.
18 In exercising the powers authorized by this paragraph, the bank
19 or savings bank shall have, but shall not be confined to, the same
20 rights and remedies conferred upon safe deposit companies;

21 (5) to purchase, hold, lease and convey real property or any in-
22 terest therein for the following purposes, and for no others:

23 (a) such as may be necessary or convenient for the use, opera-
24 tion, or housing of its principal office or any branch office, or an
25 auxiliary office, or for the storage of records or other personal prop-
26 erty, or for office space for use by its officers or employees, or which

27 may be reasonably necessary for future expansion of its business,
28 or which is otherwise reasonably incidental to the conduct of its
29 business; and which may include, in addition to the space required
30 for the transaction of its business, other space which may be let as
31 a source of income. In exercising the powers conferred by this sub-
32 paragraph, the bank or savings bank shall be subject to the limita-
33 tions imposed by paragraph (13) of this section;

34 (b) such as may be conveyed to it in whole or part satisfaction
35 of debts previously contracted in the course of its dealings;

36 (c) such as it shall purchase at sale under judgments and decrees
37 in its favor, and on foreclosure of mortgages held by it; and

38 (d) such as it shall purchase or acquire to minimize or prevent
39 the loss or destruction of any lien or interest therein;

40 provided, that all real property not held for any purpose specified
41 in subparagraph (a) of this paragraph, shall be sold within 5 years
42 of its acquisition, or within 5 years after the time it ceases to be
43 held for any purpose specified in subparagraph (a) of this para-
44 graph, unless the commissioner shall extend the time within which
45 such sale shall be made;

46 (6) to be a member of the Federal Reserve System; to sub-
47 scribe for, purchase, hold, and surrender such amounts of the
48 capital stock of the Federal Reserve Bank organized within the dis-
49 trict in which such bank or savings bank is located may be re-
50 quired or as may be deemed advisable by such bank or savings
51 bank; and to have and exercise all powers, privileges and options
52 which are conferred by law upon such members; to comply with all
53 requirements of Federal legislation and the rules and regulations
54 lawfully promulgated thereunder governing such membership as
55 such legislation and such rules and regulations may provide at the
56 time of inception of such membership, and as the same may from
57 time to time thereafter be amended or supplemented; and to assume
58 and discharge all liabilities and obligations which may be required
59 by reason of such membership;

60 (7) to be a member of Federal Deposit Insurance Corporation, or
61 of any successor corporation having for its purpose the insurance
62 of deposits, and to do all things, and assume and discharge all liabil-
63 ities and obligations imposed upon such members by Federal legis-
63A lation or by rules and regulations lawfully promulgated pursuant
64 thereto, as the same may provide at the inception of such member-
65 ship, or as the same may thereafter be amended or supplemented;

66 (8) to be a member of any Federal agency hereafter created,
67 membership in which is open to banking institutions, and the pur-
68 pose of which is to afford advantages or safeguards to banking

69 institutions, or to their depositors, and to comply with all the
70 requirements and conditions imposed upon such members, except
71 that the power by this paragraph conferred shall not be exercised
72 unless the commissioner, with the concurrence of the banking ad-
73 visory board, shall make a general order authorizing banks or
74 savings banks, or both, to become and be such members, upon such
75 terms and conditions as may in such order be prescribed;

76 (9) to subscribe for, purchase and hold stock of one or more safe
77 deposit companies which have been or may be organized to do
78 business on or adjacent to premises occupied by the principal office
79 or a branch office of the bank or savings bank; provided, that

80 (a) in the case of a savings bank, the amount so invested shall
81 not exceed 5% of its surplus; and

82 (b) in the case of a bank, the amount so invested shall not exceed
83 10% of its capital stock and surplus; and

84 (c) each purchase of such stock shall first have been authorized
85 by a resolution, stating the number of shares to be purchased and
86 the amount to be paid therefor, adopted by its board of directors
87 or board of managers, and, in the case of a bank, approved by a
88 majority in interest of its stockholders at any annual or special
89 meeting; and

90 (d) each purchase of such stock by a bank or savings bank shall
91 have been approved in writing by the commissioner;

92 (10) to subscribe for, purchase and hold stock of not more than
93 one fiduciary institution organized under any law of this State
94 hereafter enacted; provided, that

95 (a) in the case of a savings bank, the amount so invested shall
96 not exceed 10% of its surplus; and

97 (b) in the case of a bank, the amount so invested shall not ex-
98 ceed 20% of its capital stock and surplus; and

99 (c) each purchase of such stock shall first have been authorized
100 by a resolution, stating the number of shares to be purchased and
101 the amount to be paid therefor, adopted by its board of directors
102 or board of managers, and, in the case of a bank, approved by a
103 majority in interest of its stockholders at any annual or special
104 meeting; and

105 (d) each purchase of such stock by a bank or savings bank shall
106 have been approved in writing by the commissioner;

107 (11) to contribute to community funds, or to charitable, philan-
108 thropic, or benevolent instrumentalities conducive to public wel-
109 fare, or civic betterment, or the economic advantage of the com-
110 munity, and to instrumentalities for the protection or advancement
111 of the interests of banking institutions, such sums as its board of

112 directors or board of managers may deem expedient and in the
113 interests of such bank or savings bank;

114 (12) to exercise all incidental powers, not specifically enumer-
115 ated in this act, which shall be necessary or convenient to carry
116 the business of the bank or savings bank;

117-118 (13) to invest in stock of a subsidiary of such bank or savings
119 bank which holds title to real property of the kind in which such
120 bank or savings bank could itself invest pursuant to subparagraph
121 (a) of paragraph 5 of this section, and to make secured or unsecured
122 loans to such subsidiary, without regard to the limitations imposed
123 by Article 13; but no bank or savings bank shall, except with the
124 prior approval of the commissioner (1) invest in real property pur-
125 suant to subparagraph (a) of paragraph (5) of this section; or (2)
126 invest in the stock or other securities of such subsidiary; or (3)
127 make a loan to such subsidiary, if the aggregate of all such invest-
128 ments and loans, when added to any indebtedness otherwise owing
129 by the subsidiary, will exceed 25% of the capital funds of the bank
130 or savings bank. As used in this paragraph, "subsidiary" of a
131 bank or savings bank means a corporation all of whose capital stock
132 and other securities having voting rights are owned by such bank
133 or savings bank, and whose powers are limited by its certificate
134 of incorporation, to the acquiring, holding, managing, selling,
135 leasing, mortgaging, altering, improving and otherwise dealing in
136 and with real property of the kind in which the bank or savings
137 bank could itself invest pursuant to subparagraph (a) of paragraph
138 (5) of this section; and "capital funds" means the aggregate of
139 the capital stock, *the principal amount owing on all capital notes*,
140 surplus and undivided profits of a bank, and the aggregate of the
141 capital deposits, if any, and the surplus of a savings bank. Every
142 subsidiary of a bank or savings bank shall be subject to examination
143 by the commissioner as provided in the case of banks and savings
144 banks pursuant to sections 260, 261, 262, 263 and 335, and the
145 ultra vires or unlawful act of a subsidiary of a bank or savings
146 bank shall be deemed to be the ultra vires or unlawful act of such
147 bank or savings bank for the purposes of Article 42. In determin-
148 ing whether to give or withhold approval of an investment or loan
149 in excess of the limitation imposed by this paragraph, the com-
150 missioner shall consider whether the making of such loan or in-
151 vestment is consistent with sound banking practice, having regard
152 to (1) the ratio between the aggregate of such loans and invest-
153 ments and the capital funds of the bank or savings bank; (2) the
154 benefits to the bank or savings bank reasonably to be anticipated
155 from such investment or such loan; (3) the ration between such

156 aggregate capital funds and total deposits; and (4) such other
157 factors as the commissioner shall consider germane to the protec-
158 tion of deposits. A violation of any provision of this paragraph
159 by any bank, savings bank, or subsidiary of a bank or savings
160 bank, shall not impair the validity of sufficiency of any deed of con-
161 veyance, mortgage, or lease made by such bank, savings bank, or
162 subsidiary, of any real property owned by it; nor shall any other
163 interest in such real property, acquired by or vested in any person
164 claiming through or under such bank, savings bank, or subsidiary,
165 or to which such person may be entitled, be impaired by reason of
166 such violation.

1 2. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to provide the means to maintain competitive parity between State banks and national banks by adding the principal amount owing on capital notes to the capital funds of a bank within the meaning of section 24 (13) of the Banking Act of 1948.