

17: 12B-5 et al.

LEGISLATIVE HISTORY CHECKLIST

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Laws of 1974 Chapter 137

Bill No. S 610

Sponsor(s) Dugan, Hagedorn & Hirkala

Date Introduced January 21

Committee: Assembly Banking

Senate Labor, Industry & Professions

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SENATE, No. 610

STATE OF NEW JERSEY

INTRODUCED JANUARY 21, 1974

By Senators DUGAN, HAGEDORN and HIRKALA

Referred to Committee on Labor, Industry and Professions

AN ACT to amend and supplement the "Savings and Loan Act (1963)," approved August 30, 1963 (P. L. 1963, c. 144).

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

1 1. Section 5 of P. L. 1963, c. 144 (C. 17:12B-5) is amended to
2 read as follows:

3 5. Definitions. The following words and phrases as used in this
4 act, unless a different meaning is plainly required by the context,
5 shall have the following meaning:

6 (1) "State association" shall mean any savings and loan associa-
7 tion, building and loan association, or any corporation, however
8 named, now or hereafter operating pursuant to the provisions of
9 this act.

10 (2) "Federal association" shall mean a savings and loan
11 association organized pursuant to an Act of Congress approved
12 June 30, 1933, entitled "Home Owners' Loan Act of 1933" or any
13 subsequent Act of Congress.

14 (3) "Association" shall mean *both* a State association and a
15 Federal association having its principal office in this State.

16 (4) "Insured association" shall mean an association whose
17 *savings members' accounts or savings deposits* are insured by the
18 Federal Savings and Loan Insurance Corporation.

19 (5) "Board" shall mean the board of directors of any
20 association.

21 (6) "Commissioner" shall mean the Commissioner of Banking
22 **[and Insurance]** of the State of New Jersey, or such other official
23 as may hereafter be charged by State law with the supervision of
24 State associations.

25 (7) "Member" shall mean a person who holds an account *or 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 *savings deposit* in [an] a *mutual* association as a savings member
27 or as a borrowing member.

28 (8) "Savings member" shall mean a [person] *member* who
29 holds an account *or a savings deposit* representing savings in an
30 association.

31 (9) "Borrowing member" shall mean a [person] *member* to
32 whom money of the association is loaned or one who is the owner
33 of property upon which the association holds a mortgage.

34 (10) "Account" shall mean the record of the financial transac-
35 tions of a [savings] member or [a borrowing member] *depositor*
36 as shown on the books of the association.

37 (11) "Direct reduction loan" shall mean a loan the principal of
38 which is repayable in periodical installments.

39 (12) "Sinking fund loan" shall mean a loan, the principal of
40 which is contracted to be repaid with the participation value of an
41 installment account pledged as collateral security for the payment
42 of the loan.

43 (13) "Straight mortgage loan" shall mean a loan, the principal
44 of which is repayable upon a fixed day and upon which no interim
45 amortization is required.

46 (14) "Account loan" shall mean a loan secured by the pledge of
47 [a] *an* [member's] account and the shares, if any, issued in connec-
48 tion therewith.

49 (15) "Capital" of a *mutual* State association shall mean the
50 aggregate participation value of all savings members' accounts.
51 It shall not be limited and shall be accumulated only by payments
52 by savings members, plus dividends credited to their accounts.

53 (16) "Participation value" of an account shall mean the amount
54 paid by a savings member on such account, plus dividends *or*
55 *interest* credited thereto, less payments of withdrawals and retire-
56 ments therefrom and any other amounts lawfully deductible
57 therefrom.

58 (17) "Withdrawal value" of an account shall mean the par-
59 ticipation value of such an account, at the time application for
60 withdrawal of the account is filed, less such part, if any, of the
61 dividends *or interest* then credited to such account as the associa-
62 tion is authorized to retain upon withdrawal.

63 (18) "Gross income" shall have the meaning ascribed to it in
64 section 6 of this act.

65 (19) "Net income" shall have the meaning ascribed to it in
66 section 7 of this act.

67 (20) "Federal Savings and Loan Insurance Corporation" shall
68 mean the corporation so named, organized pursuant to an Act

69 of Congress, or any Federal corporation, instrumentality or agency
70 which succeeds to the powers and functions of the Federal Savings
71 and Loan Insurance Corporation or undertakes to discharge the
72 purposes for which said corporation was created.

73 (21) "Federal Home Loan Bank Board" shall mean the board
74 so named, organized pursuant to an Act of Congress, or any
75 Federal corporation, instrumentality or agency which succeeds to
76 the powers and functions of the Federal Home Loan Bank Board,
77 or which is formed to carry out the purposes for which such board
78 was created.

79 (22) "Change in the bylaws" includes new bylaws and revisions,
80 amendments, supplements and repealers of existing bylaws.

81 (23) "Principal office," "branch office" and "auxiliary office"
82 shall have the meanings ascribed to them in section 8 of this act.

83 (24) "Agency" shall have the meaning ascribed to it in section
84 9 of this act.

85 (25) "Per capita assets" shall have the meaning ascribed to it
86 in section 10 of this act.

87 (26) "Population." Where in this act the population of a
88 municipality a county, or the State is mentioned, the population
89 figure shall be the last current population estimate as furnished
90 to the commissioner by any official agency of the State or Federal
91 Government.

91A (27) "Municipality." The word municipality shall include
92 cities, towns, townships, villages and boroughs.

93 (28) "First lien" shall have the meaning ascribed to it in section
94 11 of this act.

95 (29) "Foreign association" shall mean any association or
96 corporation conducting the business of a savings and loan associa-
97 tion, however designated, not incorporated under the provisions
98 of this act, except a Federal association.

99 (30) "Department" shall mean the Department of Banking
100 [and Insurance] of New Jersey.

101 (31) "*Mutual association*" shall mean any State association
102 organized pursuant to the provisions of this act without capital
103 stock.

104 (32) "*Capital stock association*" shall have the meaning ascribed
105 to it in section 15 of this amendatory and supplementary act.

106 (33) "*Capital stock*" shall have the meaning ascribed to it in
107 section 15 of this amendatory and supplementary act.

108 (34) "*Stockholder*" shall have the meaning ascribed to it in
109 section 15 of this amendatory and supplementary act.

1 2. Section 12 of P. L. 1963, c. 144 (C. 17:12B-12) is amended to
2 read as follows:

3 12. Purposes. *The purposes of [Associations] associations*
4 *operating under the provisions of this act shall be [mutual associa-*
5 *tions for the purpose of] promoting thrift, home ownership and*
6 *housing or otherwise investing funds in accordance with the provi-*
7 *sions of this act.*

1 3. Section 14 of P. L. 1963, c. 144 (C. 17:12B-14) is amended to
2 read as follows:

3 14. Contents of certificate of incorporation of a mutual associa-
4 tion. The incorporators shall personally sign [and prove or
5 acknowledge as required for deeds of real estate,] a certificate of
6 incorporation, which shall state:

7 (1) The name of the State association, which shall contain the
8 words "savings and loan association." The name shall not be
9 one already in use by another association in this State, nor one
10 so similar thereto as to deceive the public or lead to uncertainty
11 or confusion and this provision shall be subject to any law
12 restricting or prohibiting the use of the word "bank" or "banker"
13 or "banking"; provided, however, that any association organized
14 under this act may make representations describing its powers,
15 services or functions provided for in this act.

16 (2) The street, street number, if any, and the municipality in
17 this State in which the State association is to be located.

18 (3) That it is incorporated to operate as a [State] mutual
19 association pursuant to this act for the purposes herein stated.

20 (4) The name, residence (including street and number, if any)
21 post-office address and occupation of each incorporator.

22 (5) The amount which each incorporator agrees to subscribe
23 for and pay into the guaranty account of the State association.

1 4. Section 18 of P. L. 1963, c. 144 (C. 17:12B-18) is amended to
2 read as follows:

3 18. Guaranty account. *In the case of an application for the*
4 *incorporation of a mutual association, and [As] as a condition*
5 *precedent to the approval of any such application, the incorpora-*
6 *tors shall execute an agreement to subscribe to, and upon the*
7 *commencement of business pay into, an account of the State*
8 *association to be known as the "guaranty account" the aggregate*
9 *sum of \$50,000.00[. The form of such agreement] in accordance*
10 *with such terms as shall be approved by the commissioner. Such*
11 *guaranty account shall be subordinate to the accounts of saving*
12 *members. It shall be used as a guaranty against the impairment*
13 *of the capital of the State association and to the extent that it may*

14 be necessary for that purpose, losses and expenses of the State
 15 association shall be charged to it. The account shall not be released
 16 to the owners thereof, in less than 3 years from the date upon which
 17 payment was made into the account. If, thereafter, the commis-
 18 sioner finds that the reserves established to absorb losses and the
 19 undivided profits account of the State association plus the amount
 20 remaining in the guaranty account exceeds \$50,000.00, or an amount
 21 equal to 5% of the capital of the State association, whichever is
 22 greater, he shall permit the excess to be released to the owners
 23 thereof, as hereinafter provided, proportionate to their respective
 24 interests in said guaranty account.

25 The amount paid in by each subscriber to the guaranty account,
 26 shall be recorded on the books of the State association in his name,
 27 and shall be evidenced by a certificate in a form approved by the
 28 commissioner. The amount standing to the credit of any person
 29 in such account, may be transferred to another person subject to
 30 the conditions of the account. Dividends may be declared upon
 31 the amounts standing to the credit of each owner of a proportionate
 32 interest in such account in accordance with the terms of the afore-
 33 mentioned agreement, but not in excess of the maximum rate of
 34 dividends declared to savings accounts in the State association
 35 for the same period. Each owner of a proportionate interest in
 36 such guaranty account shall have the same voting rights, restric-
 37 tions and limitations as set forth in the bylaws of the association
 38 in accordance with section 126 of this act, at any annual or special
 39 meeting of the [State] mutual association. Upon release, the
 40 amount released shall be transferred to a savings account in the
 41 State association, in the name of the owner, who shall thereupon
 42 be entitled to all of the [right] rights and privileges and shall be
 43 subject to all of the duties and liabilities of membership.

1 5. Section 20 of P. L. 1963, c. 144 (C. 17:12B-20) is amended to
 2 read as follows:

3 20. Commissioner's findings *as to mutual association application.*

4 If the commissioner shall find that:

- 5 (a) the establishment of such State association is in the public
 6 interest; and
- 7 (b) will be of benefit to the area proposed to be served; and
- 8 (c) may be established without undue injury to any other
 9 association in the area in which it is proposed to locate such State
 10 association; and
- 11 (d) the State association will have a reasonable prospect of
 12 success; and
- 13 (e) the character, responsibility and general fitness of the incor-

14 porators are such as to command confidence and warrant belief that
 15 the business of the State association will be honestly and efficiently
 16 conducted; and

17 (f) the agreement with respect to the guaranty account has been
 18 executed in accordance with law, and that compliance therewith is
 19 guaranteed to his satisfaction; and

20 (g) the name proposed for the State association conforms with
 21 the requirements of this act and that the proposed bylaws are
 22 proper; and

23 (h) the State association has filed proofs as to the mailing of
 24 notice and publication required by the act[;], he shall approve such
 25 application and issue a certificate of approval which shall be en-
 26 dorsed upon or annexed to such certificate of incorporation.

1 6. Section 25 of P. L. 1963, c. 144 (C. 17:12B-25) is amended to
 2 read as follows:

3 25. *A. Mutual associations.*

4 (1) Any [State] *mutual* association may make written applica-
 5 tion to the commissioner for authority to operate one section 25
 6 branch office when the total of its reserve accounts, established
 7 under the provisions of section 128 of this act, and undivided
 8 profits are at least equal to [5%] 4% of its capital or \$100,000.00,
 9 whichever is less.

10 (2) Any [State] *mutual* association operating one or more sec-
 11 tion 25 or 27 branch offices, may apply to the commissioner for
 12 authority to operate additional section 25 branch offices, when the
 13 total of its reserve accounts, established under the provisions of
 14 section 128 of this act, and undivided profits are at least equal to
 15 [5%] 4% of its capital, plus an amount equal to \$50,000.00 for
 16 each existing section 25 branch office the association is operating
 17 at the date of its application.

18 If [the] an applying *mutual* association's reserves and undivided
 19 profits do not equal or exceed the [requirements] amounts for
 20 reserves and undivided profits hereinabove set forth, the [State]
 21 *mutual* association may nevertheless make such application, pro-
 22 vided the [State] *mutual* association agrees to establish a "guar-
 23 anty account," under the same conditions as set forth in section 18
 24 except as modified by the following:

25 (a) The amount of such guaranty account shall equal the
 26 difference between the reserves and undivided profits the applying
 27 [State] *mutual* association requires under the provisions of sub-
 28 section 2 of this section, and the amount of reserves and undivided
 29 profits held by the applying [State] *mutual* association at the date
 30 of such application.

31 (b) A separate guaranty account may be established for each
32 section 25 branch office applied for.

33 (c) The agreement for the guaranty account shall contain a
34 provision providing for its release to the owners thereof at such
35 time as the reserves, established under section 128 of this act, and
36 undivided profits of the [State] *mutual* association are equal to
37 [5%] 4% of capital, plus \$50,000.00 for each section 25 branch
38 office in operation; or at such earlier time as the commissioner may
39 upon application of the association approve, irrespective of the
40 provisions of section 18. Upon release, the amount released shall
41 be transferred to a savings account in the [State] *mutual* associa-
42 tion, in the name of the owner. In the event a [State] *mutual*
43 association simultaneously applies for authority to operate more
44 than one section 25 branch office, or other applications for section
45 25 branch offices are pending by such association, the [State]
46 *mutual* association must comply with the reserve and undivided
47 profits or guaranty account requirements as hereinabove set forth
48 for each section 25 branch office applied for in excess of the first
49 application.

50 *B. Capital stock associations.*

51 (1) *Any capital stock association may make written application*
52 *to the commissioner for authority to operate one section 25 branch*
53 *office when the total of its reserve accounts, required or permitted*
54 *under the provisions of this act, its stated capital, capital surplus,*
55 *and earned surplus are at least equal to 4% of its depositors'*
56 *accounts, or \$100,000.00; whichever is less.*

57 (2) *Any capital stock association operating one or more section*
58 *25 or 27 branch offices, may apply to the commissioner for authority*
59 *to operate additional section 25 branch offices when the total of its*
60 *reserve accounts, required or permitted under the provisions of*
61 *this act, its stated capital, capital surplus, and earned surplus are*
62 *at least equal to 4% of its depositors' accounts, plus the sum of*
63 *\$50,000.00 for each existing section 25 branch office said association*
64 *is operating at the time of its application.*

1 7. Section 62 of P. L. 1963, c. 144 (C. 17:12B-62) is amended to
2 read as follows:

3 62. Directors, number, powers. The business and affairs of every
4 State association shall be managed and directed by a board of
5 directors. The board shall consist of such number as the bylaws
6 provide, but not less than six. Each director shall be a citizen of
7 the United States and shall be *either* a member of the [State]
8 *mutual* association or a stockholder of the capital stock association,
9 as the case may be. He shall have such other qualifications and

10 meet such eligibility requirements, as this act and the bylaws
 11 provide. The board may exercise any and all powers of a State
 12 association not expressly reserved to the members of the **[State]**
 13 *mutual association or the stockholders of the capital stock associa-*
 14 *tion* by the provisions of this act and the bylaws. All checks, notes
 15 and drafts of the State association shall be executed in a manner
 16 and form determined by resolution of the board of the State
 17 association. If the bylaws so provide, the board may delegate any
 18 of its powers to any committee composed of members of the board.

1 8. Section 63 of P. L. 1963, c. 144 (C. 17:12B-63) is amended to
 2 read as follows:

3 63. Directors' election, vacancies. The directors shall be elected
 4 by the members of **[the]** *a mutual association or the stockholders*
 5 *of a capital stock association, as the case may be*, by ballot at the
 6 annual meeting, for such term, not exceeding 3 years, as the bylaws
 7 provide. Where the term is more than 1 year, the bylaws shall
 8 establish terms of office so that an equal number of directors, so
 9 far as possible, shall be elected each year. A vacancy in the board
 10 may be filled by the board until the next annual meeting of the
 11 association, when it shall be filled by the members *or stockholders*
 12 *of the association* for the remainder of the unexpired term. Each
 13 director shall hold office for the term for which he is elected and
 14 until his successor shall be chosen and qualified.

1 9. Section 65 of P. L. 1963, c. 144 (C. 17:12B-65) is amended to
 2 read as follows:

3 65. Officers. The officers of every State association shall be a
 4 president, one or more vice presidents, a secretary and a treasurer
 5 and may include a chairman of the board if the bylaws so provide,
 6 together with such other officers as provided by the bylaws or as
 7 determined by the board to be necessary for the conduct of the
 8 State association's business. All officers shall be savings members
 9 *or savings depositors, as the case may be*, of the State association.
 10 They shall be elected by the board unless the bylaws provide for
 11 their election by the members *or stockholders* of the State associa-
 12 *tion*. Each officer shall be elected for a term of not more than 1
 13 year, but shall continue in office until the election and qualification
 14 of his successor. Any two offices, except the offices of president
 15 and vice president, may be held by one person. No officer shall act
 16 as attorney or conveyancer of his State association. A vacancy
 17 in any office may be filled by the board for the unexpired term. The
 18 board may appoint or employ or authorize any officer to appoint
 19 or employ assistant officers or assistants to officers subject to the

20 confirmation of the board; provided, however, that assistants to
21 officers shall not be considered as officers, but as employees.

1 10. Section 67 of P. L. 1963, c. 144 (C. 17:12B-67) is amended to
2 read as follows:

3 67. Oath of office of directors and officers. Each officer and
4 director shall, before entering upon the duties of his office, take
5 and subscribe to the following oath or affirmation of office:

OATH OR AFFIRMATION OF OFFICE

6 State of New Jersey

7 County of ss.:

8 of full age, being duly sworn on his
9 oath or affirmation according to law, deposes and says:

10 1. I reside at; am a member *or*
11 *stockholder and/or depositor, as the case may be*, of the
12 association; hereby accept the office of
13, to which I have been elected or appointed; will
14 diligently and honestly administer the affairs of said association
15 within the scope of my powers and duties; and not knowingly
16 violate, or permit to be violated, the provisions of the Savings and
17 Loan Act (1963), and the association's bylaws.

18 Subscribed and sworn to or affirmed before me this day
19 of, 19.....

20

21 All oaths or affirmations of office shall be filed with the secretary.
22 If any officer or director shall fail within a reasonable time after his
23 election to take and subscribe the oath or affirmation required by
24 this section, the board may declare his office vacant. If any officer
25 or director shall violate the provisions of his oath, or affirmation
26 of the board, after affording him an opportunity to be heard, may
27 declare his office vacant by a vote of two-thirds of the directors
28 present at any meeting of the board, of which meeting notice shall
29 have been given to each director.

1 11. Section 73 of P. L. 1963, c. 144 (C. 17:12B-73) is amended to
2 read as follows:

3 73. A. Bonds required. The board shall require the secretary,
4 treasurer, attorney, conveyancer and every other officer, director,
5 employee, or agent handling or having the custody or charge of
6 money, securities, books or records belonging to the association,
7 before entering upon his duties, to be bonded in adequate amount
8 and with good and sufficient surety, which shall be a surety company
9 authorized to transact business in this State, and such bonds shall
10 be approved by the board. The board shall examine annually all
11 the bonds and pass on their sufficiency, and, if insufficient, immedi-

12 ately require new or additional bonds. The failure of any person
13 to furnish, or qualify for, such bond shall be ground for his
14 summary removal by the board. The commissioner may at any
15 time order the bond of any such person to be increased. In lieu
16 of such individual bonds, the board may procure a blanket bond
17 providing the same protection to the association. The association
18 may pay the premiums on any and all such bonds. No bond shall
19 be deemed to comply with the requirements of this section unless
20 such bond contains a provision that it shall not be cancelable for
21 any cause unless notice of intention to cancel is filed in the Depart-
22 ment of Banking [and Insurance] at least 5 days before the day
23 upon which cancellation shall take effect.

24 B. Indemnification of officers, directors and employees. Any per-
25 son shall be indemnified or reimbursed by the association for
26 reasonable expenses, including, but not limited to, attorney fees,
27 actually incurred by him in connection with any action, suit or pro-
28 ceeding, instituted or threatened, judicial or administrative, civil
29 or criminal, to which he is made a party by reason of his being
30 or having been a director, officer or employee of an association;
31 provided, however, that no person shall be so indemnified or reim-
32 bursed, nor shall he retain any advancement or allowance for
33 indemnification which may have been made by the association in
34 advance of final disposition in relation to such action, suit or pro-
35 ceeding in which, and to the extent that, he finally shall be adjudi-
36 cated to have been guilty of a breach of good faith, to have been
37 negligent in the performance of his duties or to have committed an
38 action or failed to perform a duty for which there is a common law
39 or statutory liability; and, provided further, that a person may,
40 with the approval of the commissioner, be so indemnified or reim-
41 bursed for:

42 (1) Amounts paid in compromise or settlement of any action,
43 suit or proceeding, including reasonable expenses incurred in con-
44 nection therewith; or

45 (2) Reasonable expenses, including fines and penalties, incurred
46 in connection with a criminal or civil action, suit or proceeding in
47 which such person has been adjudicated guilty, negligent or liable,
48 if it shall be determined by the board of directors and by the
49 commissioner that such person was acting in good faith and in
50 what he believed to be the best interests of the association and
51 without knowledge that the action was illegal, and if such indemni-
52 fication or reimbursement is approved at an annual or special
53 meeting of the members *or stockholders* by a majority of the votes
54 eligible to be cast. Amounts paid to the association, whether pur-

55 suant to judgment or settlement, by any person within the meaning
56 of this section shall not be indemnified or reimbursed in any case.

1 12. Section 75 of P. L. 1963, c. 144 (C. 17:12B-75) is amended to
2 read as follows:

3 75. Each **[State]** *mutual* association shall operate upon one of
4 the plans set forth in this section; and the bylaws of each **[State]**
5 *mutual* association shall designate under which of said plans it
6 shall operate.

7 Plan 1. The nonshare plan described in section 76.

8 Plan 2. The share plan described in section 77.

9 Plan 3. The plan upon which it was operating on April 4, 1946,
10 providing it has been continually operating on that plan.

11 Plan 4. Any insured *mutual* association may, at any time, elect
12 to raise its capital by accepting savings deposits, provided that:

13 (1) The bylaws of the association so permit; and

14 (2) Such bylaws shall be approved at a regular or special meet-
15 ing of the members of the association as provided in sections 114,
16 115 and 116 of this act.

17 Holders of savings deposits shall be creditors of the association
18 and shall have equal priority with other ordinary general creditors
19 in the event of the dissolution and liquidation of the association,
20 and the bylaws shall so provide.

21 Savings members at the time of the adoption of Plan 4 who do
22 not transfer such accounts to savings deposits shall, nevertheless,
23 have equal rights with those who hold savings deposits.

24 The bylaws shall contain such other provisions as may be re-
25 quired by the commissioner and by the Federal Savings and Loan
26 Insurance Corporation.

27 Where, under the provisions of this act or of any law of this
28 State, the word "account" is used to describe a savings account in
29 a savings and loan association, it shall be deemed to be inclusive of
30 a "savings deposit."

31 Any **[State]** *mutual* association may, at any time hereafter,
32 change from the plan upon which it shall then be operating to
33 Plan 1 or 2 and may make such change in plan applicable only to
34 those memberships established after such change, continuing, con-
35 currently, to operate upon the plan upon which it previously
36 operated with respect to those memberships established prior to
37 such change.

1 13. Section 126 of P. L. 1963, c. 144 (C. 17:12B-126) is amended
2 to read as follows:

3 126. Voting rights of *Members*. Each member 16 years of age,

4 or over, shall be entitled to vote at any meeting of [the State]
5 a *mutual* association.

6 Each [State] *mutual* association shall set forth in its bylaws the
7 voting rights of its members, which shall be in accordance with
8 subsection (a) or subsection (b) of this section:

9 (a) Each member entitled to vote shall have one vote at any
10 meeting of the [State] *mutual* association regardless of the number
11 of shares or accounts standing in his name; or

12 (b) Each savings member entitled to vote shall have one vote for
13 each \$100.00, or fraction thereof, of the participation value of his
14 savings account; each borrowing member entitled to vote under
15 this subsection shall be entitled to have one vote; but in no event
16 shall the maximum number of votes permitted to any member
17 under this subsection be greater than 50 votes regardless of
18 the number or types of shares or accounts or the value of such
19 shares or accounts held by such member.

20 Under either subsection (a) or subsection (b) of this section
21 members may vote by written proxy if the bylaws so provide and
22 the bylaws may prohibit voting by persons who have become mem-
23 bers within 60 days of the date when the vote is cast.

24 Under either subsection (a) or subsection (b) of this section
25 the trustee or fiduciary of a fiduciary account shall be entitled to
26 cast the vote or votes permitted under said subsections.

27 Under subsection (a) of this section only one vote shall be allowed
28 in connection with any account held by two or more persons, jointly;
29 under subsection (b) of this section no more than the maximum
30 number of 50 votes, provided for in said subsection shall be allowed
31 in connection with an account held by two or more persons, jointly.

32 Under subsection (a) or subsection (b) of this section when
33 accounts or shares are pledged, the pledgor may vote thereon.

1 14. Section 204 of P. L. 1963, c. 144 (C. 17:12B-204) is amended
2 to read as follows:

3 204. Bulk transfers.

4 (1) Bulk transfers authorized. Any State association may with
5 the written approval of the commissioner, transfer, sell, or ex-
6 change in bulk and not in the regular and usual course of its
7 business, all or any part of its assets, including its name and good
8 will, to any other association; and accept as consideration there-
9 for, cash, *capital stock* and accounts or [either] *any* of them, of
10 the purchasing association upon such terms as may be determined
11 by the vote of a majority of the board of such State association
12 and by a majority of the votes cast by the members *or stockholders*,
13 *as the case may be*, of such State association, present in person or

14 by proxy, at any annual meeting or at any special meeting called
 15 for that purpose. At least 10 days' notice of any such [members']
 16 meeting shall be mailed to each member *or stockholder, as the case*
 17 *may be*, and shall state the matter to be acted upon. The considera-
 18 tion received for such bulk transfer, sale or exchange shall be
 19 applied to the payment of the association's debts and the discharge
 20 of its liabilities and the balance thereof shall be distributed to its
 21 members *or stockholders, as the case may be*, pro rata.

22 (2) Liquidation following bulk transfer. If such bulk transfer,
 23 sale or exchange shall include all or substantially all of the assets
 24 of a State association, or all or substantially all of its mortgage
 25 assets, the State association shall thereupon be dissolved and shall
 26 liquidate. The State association shall be managed and directed
 27 during liquidation, by its board in accordance with the provisions
 28 of section 205 of this act.

29 (3) *Transfer to Federal associations.* Any State association may
 30 transfer, sell or exchange in bulk, all or part of its assets to any
 31 Federal association having its principal office in this State, by
 32 compliance with the provisions of this section and by compliance
 33 with applicable Federal law and regulation; provided, however,
 34 that this subsection shall only be operative in the event that any
 35 Federal association having its principal office in this State may
 36 transfer, sell or exchange, all or part of its assets in bulk, to any
 37 association of this State, in accordance with Federal law and
 38 regulation which is substantially equivalent to the provisions of
 39 this section.

40 (4) *Application for establishment of section 27 branch office.*
 41 Simultaneously with the submission of the written application
 42 required by subsection (1) of this section, any State association
 43 which is purchasing all or substantially all of the assets of another
 44 association may, subject to the conditions and limitations of section
 45 27 of this act, submit its application to the commissioner for the
 46 establishment of a section 27 branch office or offices.

ARTICLE XXI. CAPITAL STOCK ASSOCIATIONS

1 15. Definitions applicable to capital stock associations. The
 2 following words and phrases as used in this act, unless a different
 3 meaning is plainly required by the context, shall have the following
 4 meaning:

5 a. "Capital stock association" shall mean any insured State
 6 association organized pursuant to the provisions of this act having
 7 for its purposes the encouragement of thrift, home ownership and
 8 housing and the accumulation of funds through the issuance and
 9 sale of its stock, the acceptance of deposits and such other accounts

10 as may be authorized for mutual associations plus such other
11 purposes as are set forth in section 12 (C. 17:12B-12) of this act
12 and the loaning of funds so accumulated in accordance with the
13 powers conveyed by this act to mutual associations. A capital stock
14 association shall issue a class or classes of stock known as capital
15 stock.

16 b. "Capital Stock" or shares of capital stock shall mean the
17 units into which the proprietary interests in a capital stock associa-
18 tion are divided. A portion of the consideration received for any
19 such capital stock or shares of capital stock shall be set aside and
20 shall represent the fixed and permanent capital of the capital stock
21 association, subordinate to all liabilities, including the aggregate of
22 depositors' accounts. Capital stock shall have a par value per share
23 or shall be without par value as stated in the certificate of incorpora-
24 tion and approved by the commissioner.

25 c. "Capital surplus" means the entire surplus of a capital stock
26 association other than its earned surplus.

27 d. "Earned surplus" means the portion of the surplus that
28 represents the net earnings, gains and profits, after deduction of all
29 losses, that have not been distributed to the stockholders as div-
30 idends or transferred to stated capital or capital surplus, or applied
31 to other purposes permitted by law.

32 e. "Stated capital" means at any particular time the sum of

33 (1) the par value of all shares of stock of the capital stock asso-
34 ciation having a par value that have been issued;

35 (2) the amount of the consideration received by the capital stock
36 association for all shares of stock of the capital stock association
37 without par value that have been issued, except such part of the
38 consideration therefor as may have been allocated to surplus in a
39 manner permitted by law; and

40 (3) such amounts not included in paragraphs (1) and (2) as
41 have been transferred to stated capital of the capital stock associa-
42 tion, whether upon the issuance of shares of stock as a stock div-
43 idend or otherwise, minus all reductions from such sum as have
44 been effected in a manner permitted by law.

45 f. "Surplus" means the total of the reserves of a capital stock
46 association, other than those reserves required to be established by
47 law, and specific and valuation reserves and undivided profits.

48 g. "Stockholder" shall mean the holder of record of one or more
49 shares of the capital stock of a capital stock association.

50 h. "Depositor" shall mean a person who holds an account or a
51 savings deposit representing savings in a capital stock association.

1 16. Persons who may incorporate a capital stock association. Any
2 number of persons, not less than nine, domiciled in this State and
3 citizens of the United States, hereinafter referred to as incorpora-
4 tors, may incorporate a capital stock association for the purposes
5 specified in this act, by complying with the terms, conditions and
6 procedures herein stated.

1 17. Contents of certificate of incorporation of a capital stock
2 association. The incorporators shall personally sign a certificate
3 of incorporation which shall state:

4 a. The name of the State association and the location of its
5 principal place of business, which shall comply with subsection (1)
6 of section 14 (C. 17:12B-14) of this act.

7 b. That it is incorporated to operate as a capital stock associa-
8 tion, pursuant to this act for the purposes herein stated.

9 c. The name, residence (including street and number, if any),
10 post-office address and occupation of each incorporator.

11 d. The aggregate number of shares of capital stock which the
12 capital stock association shall have authority to issue; if such
13 shares are to consist of one class only, the par value of each of
14 such shares, or a statement that all of such shares are without
15 par value; if the shares are divided into classes, or into classes
16 and series, the designation of each class and series, the number of
17 shares of capital stock in each class or series, and a statement of
18 the relative rights, preferences and limitations of the shares of
19 capital stock of each class and series to the extent that such designa-
20 tions, numbers, relative rights, preferences and limitations have
21 been determined; if the shares of capital stock are or are to be,
22 divided into classes, or into classes or series, a statement of any
23 authority vested in the board to divide the shares into classes or
24 series or both, and to determine or change for any class or series
25 its designation, number of shares, relative rights, preferences and
26 limitations.

27 e. The number of directors constituting the first board to serve
28 until the first annual meeting of the association and the names and
29 addresses of the persons who are to serve as such directors.

30 f. The number of shares subscribed for by each incorporator and
31 the total amount of capital stock subscribed for as of the date of
32 the certificate of incorporation.

1 18. Filing of certificate of incorporation of capital stock associa-
2 tion. The certificate of incorporation shall be filed in accordance
3 with the provisions of sections 16 (C. 17:12B-16) and 17
4 (C. 17:12B-17) of this act.

1 19. Capital stock and surplus. In the case of an application for
2 the incorporation of a capital stock association, the proceeds from
3 the sale of the capital stock having par value shall be set apart
4 to the extent of the par value and shall be maintained as the stated
5 capital of the association. The proceeds from the sale of capital
6 stock without par value shall be set apart to the extent provided
7 in the certificate of incorporation as approved by the commissioner
8 and shall be maintained as the stated capital of the association.
9 No loan shall be made by a capital stock association secured in
10 any manner by its stock.

11 The commissioner shall determine the minimum amount to be
12 set apart from the proceeds of stock to be subscribed and main-
13 tained as the stated capital of the capital stock association, with
14 provision made for full payment therefor in cash. In addition, a
15 capital surplus account shall be established for such association
16 in an amount satisfactory to the commissioner, provided however,
17 that in no event shall the aggregate of stated capital and capital
18 surplus be less than \$500,000.00. Such stated capital and capital
19 surplus shall not be available for dividends or other distributions
20 to stockholders, except upon prior written authorization of the
21 commissioner or in the event of dissolution and final liquidation,
22 provided, however, that the board of such association, by appro-
23 priate action, may apply all or any part of capital surplus to the
24 reduction or write-off of any deficit arising from losses or diminu-
25 tion in value of its assets, or may transfer to or designate as part
26 of the accounts authorized or required by paragraphs (a), (b) and
27 (c) of section 128 (C. 17:12B-128) of this act, all or any part of
28 any capital surplus.

29 All shares of capital stock shall be transferable by the holders
30 thereof in accordance with the bylaws of such association.

1 20. Commissioner's findings as to a capital stock association. If
2 the commissioner shall find that:

- 3 a. The establishment of such capital stock association is in the
4 public interest;
- 5 b. Will be of benefit to the area proposed to be served;
- 6 c. May be established without undue injury to any other associa-
7 tion in the area in which it is proposed to locate such capital stock
8 association;
- 9 d. The capital stock association will have a reasonable prospect
10 of success;
- 11 e. The character, responsibility and general fitness of the in-
12 corporators are such as to command confidence and warrant belief

13 that the business of the capital stock association will be honestly
14 and efficiently conducted;

15 f. The name proposed for the capital stock association conforms
16 with the requirements of the act and that the proposed bylaws are
17 proper;

18 g. The capital stock association has filed proofs as to the mailing
19 of notice and publication required by the act; and

20 h. The provisions of section 19 of this amendatory and supple-
21 mentary act dealing with capital stock and capital surplus require-
22 ments have been complied with to his satisfaction, and it is qualified
23 as a member of the Federal Savings and Loan Insurance
24 Corporation;

25 he shall approve such application and issue a certificate of approval
26 which shall be endorsed upon or annexed to such certificate of
27 incorporation.

1 21. Specific powers of capital stock associations. The powers
2 contained in section 47 (C. 17:12B-47), section 48 (C. 17:12B-48)
3 and section 130 (C. 17:12B-130) of this act shall be available to
4 capital stock associations (but the term "member" as used therein
5 shall be deemed to refer to "depositor" or "borrower," and the
6 term "dividends" shall be deemed to refer to "interest" as may be
7 appropriate in the context), and in addition every capital stock
8 association shall have the power to:

9 a. Amend its certificate of incorporation in the following man-
10 ner:

11 (1) The board shall approve the proposed amendment and direct
12 that it be submitted to a vote at a meeting of the stockholders.

13 (2) Written notice setting forth the proposed amendment or a
14 summary of the changes to be effected thereby shall be given to each
15 stockholder of record entitled to vote thereon within the time and
16 in the manner provided in this act for the giving of notice of meet-
17 ings of stockholders.

18 (3) At such meeting a vote of the stockholders entitled to vote
19 thereon shall be taken on the proposed amendment. The proposed
20 amendment shall be adopted upon receiving the affirmative vote of
21 a majority of the votes cast in person or by proxy by the stock-
22 holders.

23 (4) No amendment shall become effective until it shall have been
24 submitted to the commissioner and he shall either have approved
25 it in writing or failed to take action thereon for a period of 30 days
26 after it shall have been submitted to him. Approval shall not be
27 withheld by the commissioner unless an amendment is in conflict
28 with the provisions of this act,

29 b. Subject to amendment of its certificate of incorporation, au-
30 thorize issuance of additional capital stock for:

31 (1) Payment of a consideration other than cash in connection
32 with mergers with or purchase of assets of another association.

33 (2) The purpose of increasing the amount of its stated capital
33-46 by sale of such additional capital stock.

47 (3) Capital stock options, the aggregate of which shall not exceed
48 10% of the amount of authorized capital stock at the time of the
49 granting of such options and the establishment of one or more
50 capital stock purchase plans for officers and employees of the capital
51 stock association, which plan or plans may include provisions for
52 partial contribution by the association.

53 c. Declare and distribute stock dividends without the necessity
54 of an amendment to its certificate of incorporation, notwithstanding
55 that the payment of such dividends will effect an increase in the
56 capital stock of the capital stock association. In such a case, div-
57 idends may be paid from time to time on the stock of the capital
58 stock association, at the discretion of the board, provided that prior
59 to the date of the payment of any such dividend, a certificate shall
60 be filed with the commissioner, stating:

61 (1) The date upon which the dividend is to be paid;

62 (2) The amount of such dividend; and

63 (3) The amount of the capital stock and the paid-in or con-
64 tributed surplus of the capital stock association after giving effect
65 to the payment of such dividend.

66 If the commissioner finds that the payment of the stock dividend
67 is not contrary to law, he shall endorse his approval upon the
68 certificate and shall file it in the department. A certificate filed in
69 the department pursuant to this subsection shall be deemed for all
70 purposes to be an amendment to the certificate of incorporation of
71 the capital stock association with the same effect as if it had been
72 authorized, executed, approved and filed in the department pur-
73 suant to subsection a. of this section.

74 A split-up or division of the issued shares of any class or series
75 into a greater number of shares of the same class or series without
76 increasing the amount of a capital stock association's stated capital
77 shall not be construed to be a stock dividend within the meaning of
78 this subsection and may be accomplished by amendment of the
79 certificate of incorporation as provided in this act.

80 d. Fix a record date for the purpose of determining the stock-
81 holders entitled to notice of, or to vote, at any meetings of stock-
82 holders or any adjournment thereof, or to express consent to, or

83 dissent from, any proposal without a meeting, or for the purpose of
84 determining stockholders entitled to receive payment of any div-
85 idend or electment of any right, or for the purpose of any other
86 action, the bylaws may provide for fixing, or in the absence of such
87 provision, the board may fix, in advance, a date as the record date
88 for any such determination of stockholders. Such date shall not be
89 more than 60 nor less than 10 days before the date of such meeting,
90 nor more than 60 days prior to any other action.

91 e. Borrow money provided that the aggregate indebtedness for
92 borrowed money, other than to the Federal Home Loan Bank, will
93 not exceed 20% of its depositors' accounts, except with the approval
94 of the commissioner.

1 22. Directors' election, vacancies. The directors shall be elected
2 by the stock holders of a capital stock association by ballot at the
3 annual meeting for such term, not exceeding 3 years, as the bylaws
4 provide. Where the term is more than 1 year, the bylaws shall
5 establish terms of office so that an equal number of directors, so far
6 as possible, shall be elected each year. A vacancy in the board may
7 be filled by the board until the next annual meeting of the associa-
8 tion, when it shall be filled by the stockholders of the association
9 for the remainder of the unexpired term. Each director shall hold
10 office for the term for which he is elected and until his successor
11 shall be chosen and qualified.

1 23. Liability of stockholders. Stockholders, after their stock has
2 been fully paid, are not liable to creditors or for assessments upon
3 their stock. Stock shall be considered fully paid when the consider-
4 ation for the issuance of any shares of capital stock has been paid,
5-6 in whole, in cash.

1 24. Notice to stockholders. Except where this act or regulations
2 promulgated hereunder expressly provide otherwise, all notices,
3 statements, reports or other documents required to be given to any
4 stockholder may be given to him either personally or by mail,
5 postage prepaid, addressed to him at his last address which appears
6 on the records of the association. Service by mail shall be complete
7 upon posting.

1 25. Meeting place. Stockholders' meetings shall be held at the
2 capital stock association's principal office or at such other place
3 within the State of New Jersey as the board shall designate.

1 26. Meetings of stockholders.

2 a. Annual. The stockholders shall meet at least once in each
3 year, as the bylaws shall provide, upon not less than 10 days'
4 written notice, which shall be given by mail for the election of

5 directors and the transaction of any other business which may
6 properly be brought before such meeting.

7 b. Special meetings of the stockholders may be called as provided
8 in the bylaws, but upon not less than 10 days' written notice by
9 mail, and the notice of such meeting shall state the purposes for
10 which it is called.

1 27. Quorum for stockholders' meetings. The bylaws shall pre-
2 scribe the number of stockholders which shall constitute a quorum
3 at a meeting.

1 28. Voting rights of stockholders.

2 a. Each stockholder owning shares of capital stock with voting
3 rights shall be entitled to vote at any meeting of the capital stock
4 association. Each capital stock association shall set forth in its
5 bylaws the voting rights of its stockholders. Each holder of shares
6 of capital stock shall be entitled to one vote for each voting share
7 on each matter submitted to a vote at a meeting of stockholders.

8 b. Stockholders may vote by written proxy if the bylaws so pro-
9 vide and the bylaws may prohibit voting by persons who have
10 become stockholders within 60 days of the date when the vote is
11 cast.

12 c. Each share of stock held jointly shall be allowed one vote.

1 29. Reports to stockholders. Every capital stock association shall
2 make available to its stockholders annually, a report of its financial
3 condition as of the end of the fiscal year, either

4 a. By mailing to each stockholder of record a statement of assets
5 and liabilities, and a statement of operations; or

6 b. By publishing a statement of its assets and liabilities at least
7 once in a newspaper published or circulating in the municipality
8 in which the principal office of the capital stock association is
9 located and by furnishing to any stockholder upon request, a state-
10 ment of assets and liabilities, and a statement of operations; or

11 c. By reporting in such manner and form as may be required by
12 regulations promulgated by the commissioner.

1 30. Dividends on capital stock. The directors of a capital stock
2 association, after payment of interest to depositors may declare
3 dividends on capital stock from net income, earned surplus or
4 undivided profits in accordance with the provisions of this act and
5 the bylaws of such association, provided that before and following
6 the declaration of any such dividend, a capital stock association
7 shall have reserves required by this act, stated capital, capital
8 surplus, earned surplus and undivided profits totaling at least 5%
9 of the outstanding amount of its savings accounts or deposits.

1 31. Books and records of capital stock associations; right of
2 inspection.

3 a. Each capital stock association shall keep books and minutes
4 of the proceedings of its stockholders, board and executive com-
5 mittee, if any. The capital stock association shall keep at its
6 principal office a record or records containing the names and
7 addresses of all stockholders, the number, class and series of shares
8 held by each and the dates when they respectively became the
9 owners of record thereof. Any of the foregoing books, minutes or
10 records may be in written form or in any other form capable of
11 being converted into written form within a reasonable time. A
12 capital stock association shall convert into written form without
13 charge any such records in any such form upon the written request
14 of any person entitled to inspect them. In the case of shares of
15 stock of a capital stock association, the records of the holders of
16 such shares may be kept at the office of the capital stock associa-
17 tion's transfer agent within or without this State.

18 b. Any person who shall have been a stockholder of record of a
19 capital stock association for at least 6 months immediately pre-
20 ceding his demand and holding at least 5% of the outstanding
21 shares of any class, upon at least 5 days' written demand shall
22 have the right for any proper purpose to examine in person or
23 by agent or attorney, during usual business hours, the minutes of
24 the proceedings of its stockholders and records of stockholders and
25 to make extracts therefrom, at the places where the same are kept
26 pursuant to subsection a. of this section.

27 c. Nothing herein contained shall impair the power of the com-
28 missioner, upon proof by a stockholder of proper purpose, irrespec-
29 tive of the period of time during which said stockholder shall have
30 been a stockholder of record, and irrespective of the number of
31 shares held by him, to compel the production for examination by
32 such stockholder of the books, minutes and records of stockholders
33 of a capital stock association.

1 32. Conversion of mutual association to capital stock association.
2 A mutual association which is a member of the Federal Savings and
3 Loan Insurance Corporation, organized pursuant to the provisions
4 of this act, may convert itself into a capital stock association with
5 the same force and effect as though originally incorporated as a
6 capital stock association.

7 a. When, in the judgment of the board of such association, it
8 shall be deemed advisable and in the best interests of its members
9 that the same shall be converted into a capital stock association, as
10 provided in this section, the board shall adopt a resolution to that

11 effect, and follow such procedures as may be required by regulations
12 promulgated by the commissioner;

13 b. Upon compliance with the requirements of subsection a. of
14 this section, a meeting of the members of the association shall be
15 held upon not less than 30 days' written notice to each member by
16 mailing, postage prepaid, directed to his last address as shown on
17 the books of the association, which notice shall contain a statement
18 of the time, place and purpose for which such meeting is called.
19 Such notice shall be accompanied by a proxy statement and proxy
20 form in accordance with regulations promulgated by the commis-
21 sioner;

22 c. At the meeting of the members of any such association held
23 as provided in subsection b. of this section, such members may, by
24 the affirmative vote of at least a majority of the votes of the mem-
25 bers of the mutual association present, either in person or by proxy,
26 declare by resolution the determination to convert the association
27 into a capital stock association. A copy of the minutes of the pro-
28 ceedings of such meeting of the members shall be filed in the office
29 of the commissioner within such time and in such form and manner
30 as set forth in regulations promulgated by the commissioner;

31 d. At the meeting at which the conversion is voted upon, the
32 members of the association shall also vote upon the directors who
33 shall be the directors of the capital stock association after the
34 effective date of the conversion. The directors so elected shall be
35 the incorporators and execute and file with the commissioner a
36 certificate of incorporation as provided for in section 18 of this
37 amendatory and supplementary act, together with an application
38 for conversion which shall contain the plan of conversion pursuant
39 to the provisions of this act. Upon a finding by the commissioner
40 that (1) the plan of conversion has been adopted and approved by
41 the mutual association in compliance with the provisions of this act,
42 (2) is fair and equitable to all members, and (3) sufficient provision
43 has been made to protect the interest of the depositors of the
44 prospective capital stock association, he shall issue a certificate of
45 approval of the conversion which shall be endorsed upon or annexed
46 to the certificate of incorporation. The certificate of incorporation
47 with the commissioner's approval endorsed thereon or annexed
48 thereto, shall be recorded within 30 days after such approval in the
49 same manner and places as required by section 22 (C. 17:12B-22)
50 of this act, upon the approval by the commissioner and the filing
51 of the certificate of incorporation as aforesaid, the association shall
52 cease to be a mutual association and thereafter shall operate as a
53 capital stock association. Upon the conversion of the mutual asso-

54 ciation, the legal existence of the association shall not terminate
55 but the capital stock association shall be a continuation of the entity
56 of the mutual association and all property of the mutual associa-
57 tion, including its right, title and interest in and to all property of
58 whatsoever kind and nature, whether real, personal or mixed and
59 things, and choses in action, and every right, privilege, interest and
60 asset of every conceivable value or benefit then existing or pertain-
61 ing to it, or which would inure to it, immediately by operation of
62 law and without the necessity of any conveyance or transfer and
63 without any further act or deed shall vest in the capital stock
64 association into which the mutual association has converted itself.
65 The capital stock association shall have, hold and enjoy the same
66 in its own right as fully and to the same extent as the same was
67 possessed, held and enjoyed by the mutual association. The capital
68 stock association as of the time and the taking effect of the conver-
69 sion shall continue to have and succeed to all the rights, obligations
70 and relations of the mutual association. All pending actions and
71 other judicial or administrative proceedings to which the mutual
72 association was a party shall not be discontinued by reason of the
73 conversion, but may be prosecuted to final judgment or order in
74 the same manner as if the conversion had not been made and the
75 capital stock association resulting from the conversion may con-
76 tinue such actions in its corporate name notwithstanding such con-
77 version. Any judgment or order may be rendered for or against
78 it which might have been rendered for or against the mutual asso-
79 ciation theretofore involved in the judicial proceedings.

1 33. Plan of conversion. The conversion of a mutual association
2 into a capital stock association shall be effected in accordance with
3 the plan of conversion adopted by the members, and approved by
4 the commissioner, pursuant to the provisions of this act and con-
5 sistent with the provisions of this section. The plan shall provide:

6 a. Each savings member in the mutual association shall receive
7 an equivalent account in the capital stock association equal in
8 amount to his account in the mutual association;

9 b. A record date for determining the respective interests of
10 savings members in the mutual association, which date shall be
11 established and published by the commissioner from time to time
12 in his discretion, but not less often than annually, and may coincide,
13 in the commissioner's discretion, with a record date if the same is
14 established and published by the Federal Home Loan Bank Board.
15 Such record date shall apply to the entire State;

16 c. Participation in the initial issuance of capital stock by officers,
17 directors and employees of the association and their associates shall
18 be in accordance with the regulations promulgated by the commis-
19 sioner. The term "associate" of a person shall mean parents,
20 spouse, sisters, brothers, children or anyone married to one of the
21 foregoing persons; any corporation of which the person is an officer,
22 director or owner of more than 10% of the outstanding voting stock;
23 any trust of which such person is a trustee or substantial bene-
24 ficiary; and any partnership of which such person is a general or
25 limited partner;

26 d. The interests of directors, officers, employees and associates,
27 as that word is defined in subsection c. of this section, shall be
28 disclosed in the application for conversion filed with the commis-
29 sioner and in the notice to members of the meeting called to adopt
30 the plan of conversion;

31 e. Each savings member as of the record date shall receive such
32 rights with respect to the capital stock of the capital stock associa-
33 tion as shall be set forth in regulations promulgated by the com-
34 missioner;

35 f. A date upon which the association will advise qualified sav-
36 ings members of their rights and elections with respect to the
37 conversion. Such notice shall be in accordance with regulations
38 promulgated by the commissioner.

1 34. Adequate reserve and capital requirements. After reorgani-
2 zation or conversion pursuant to the provisions of this act, each
3 capital stock association shall maintain an adequate capital struc-
4 ture appropriate for the conduct of its business and the protection
5 of its depositors. The adequacy of the capital of a capital stock
6 association shall be determined by the commissioner after a valua-
7 tion of the character of management, the liquidity of assets, history
8 of earnings and the retention thereof, the potential volatility of the
9 account or deposit structure and with due regard to the association's
10 capacity to furnish the broadest services to the public. The reserves
11 required by this act and the capital of a capital stock association
12 resulting from the conversion of a mutual association shall not be
13 less than 5% of its savings accounts or deposits.

1 35. Authorized shares of capital stock. Each capital stock asso-
2 ciation shall have power to create and issue the number of shares
3 of capital stock stated in its certificate of incorporation. Such
4 shares may consist of one class or may be divided into two or more
5 classes and any class may be divided into one or more series. Each
6 class and series may have such designation and such relative div-
7 idend, liquidation and other rights, preferences and limitations as

8 shall be stated in the certificate of incorporation, except that all
9 shares of the same class shall be either without par value or shall
10 have the same par value. Each class and series shall be designated
11 so as to distinguish its shares from every other class and series.

1 36. Supervision of capital stock associations. In the case of a
2 capital stock association, with regard to the provisions of Article
3 XII, the word "member" shall be either inclusive of stockholders
4 of the capital stock association or shall be construed to mean stock-
5 holder wherever appropriate to the context.

1 37. Merger of capital stock associations. In the case of the
2 merger of any two or more capital stock associations, the procedure
3 to merge shall be as provided in Article XIII of this act except that
4 the word "member" shall be either inclusive of stockholders of the
5 capital stock association or shall be construed to mean stockholder
6 wherever appropriate to the context.

1 38. Conversion of a capital stock association into a Federal
2 Association. In the case of a capital stock association, the procedure
3 to convert itself into a federal association shall be as provided in
4 section 222 (C. 17:12B-222) of this act except that all references to
5 members shall be construed to mean stockholders wherever appro-
6 priate to the context. All of the provisions regarding property,
7 rights, privileges and obligations as contained in section 223
8 (C. 17:12B-223) of this act shall apply to the conversion of a capital
9 stock association into a Federal association so that the Federal
10 association shall be a continuation of the converting capital stock
11 association and continue to have all of its property, rights, priv-
12 ileges and obligations as more fully set forth in said section 223.

1 39. Conversion of a Federal association into a capital stock
2 association. In the case of a Federal association the procedure to
3 convert itself into a capital stock association shall be as provided in
4 section 224 (C. 17:12B-224) and section 225 (C. 17:12B-225) of this
5 act and section 32 of this amendatory and supplementary act.

1 40. Commencement of business of capital stock association.
2 Capital stock associations shall not commence business until its
3 accounts have been accepted for Federal Savings and Loan In-
4 surance.

1 41. Dissolution and liquidation of capital stock association. In
2 the case of the dissolution and liquidation of a capital stock associa-
3 tion, the procedure shall be as set forth in Article XVIII of this act,
4 except that the word "member" shall be either inclusive of stock-
5 holders of a capital stock association or shall be construed to mean
6 stockholder wherever appropriate to the context. In the event of

7 the dissolution and liquidation of a capital stock association, no
 8 liquidating dividend to the stockholders of the capital stock associa-
 9 tion shall be made until all liabilities of the capital stock association,
 10 including the withdrawal value of all accounts and deposits, have
 11 been satisfied in full.

1 42. Construction of inconsistent provisions. In the event of
 2 inconsistency between the provisions of this Article XXI and other
 3 provisions of this act, such other provisions to the extent of the
 4 inconsistency shall be construed to be applicable to mutual associa-
 5 tions only and not to capital stock associations.

1 43. The commissioner shall have power to implement and carry
 2 out the provisions and purposes of this Article XXI by the promul-
 3 gation and issuance of rules and regulations from time to time. The
 4 commissioner, when issuing such rules and regulations, shall, to the
 5 extent feasible, promulgate such rules and regulations in substantial
 6 conformity with applicable rules and regulations of the Federal
 7 Home Loan Bank Board and the Federal Savings and Loan In-
 8 surance Corporation.

ARTICLE XXII. SAVINGS AND LOAN ASSOCIATION
 HOLDING COMPANIES.

1 44. Definitions.

2 a. "Person" shall mean an individual or company.

3 b. "Company" shall mean any corporation, partnership, trust,
 4 joint-stock company, association or similar organization, but does
 5 not include the Federal Savings and Loan Insurance Corporation,
 6 any Federal Home Loan Bank, or any company the majority of the
 7 shares of which is owned by the United States or any state, or by
 8 an officer of the United States or any state in his official capacity,
 9 or by an instrumentality of the United States or any state.

10 c. "Subsidiary" of a person or company for purposes of this
 11 act, means any person or company which is controlled by such
 12 person or company.

13 d. "Savings and loan holding company" shall mean any com-
 14 pany which directly or indirectly controls an insured State associa-
 15 tion or controls any other company which is a savings and loan
 16 holding company by virtue of this section.

17 e. "Control" means directly or indirectly or acting in concert
 18 with one or more other persons or companies, or through one or
 19 more subsidiaries, owning, controlling, or holding the power to vote
 20 10% or more of the outstanding members' accounts of a mutual
 21 association or the shares of capital stock of a capital stock associa-
 22 tion or the shares of stock of a savings and loan holding company

23 or holding or controlling proxies representing 10% or more of the
24 shares of a mutual savings and loan association.

25 f. "Acquiring party" means the person, company, subsidiary, or
26 savings and loan holding company acquiring control of a savings
27 and loan association or savings and loan holding company by the
28 process of merger, consolidation or purchase of assets or capital
29 stock.

1 45. Necessity of application; contents. It shall be unlawful for
2 any acquiring party to acquire control of a State Association or
3 savings and loan holding company or to acquire all the assets or
4 substantially all the assets, of a savings and loan holding company
5 by the process of merger, consolidation or purchase of assets or
6 capital stock of such savings and loan holding company until 30
7 days after the date of filing with the commisisoner of an application
8 containing all or part of the following information and any addi-
9 tional information that the commissioner may prescribe as neces-
10 sary or appropriate in the public interest or for the protection of
11 account holders, borrowers or stockholders:

12 a. The identity, character and experience of each acquiring party
13 by whom or on whose behalf acquisition is to be made.

14 b. The financial and managerial resources and future prospects
15 of each acquiring party involved in the acquisition.

16 c. The terms and conditions of any proposed acquisition and the
17 manner in which such asquisition is to be made.

18 d. The source and amount of the funds or other consideration
19 used or to be used in making the acquisition, and, if any part of
20 these funds or other consideration has been or is to be borrowed or
21 otherwise obtained for the purpose of making the acquisition, a
22 description of the transaction and the names of the parties. How-
23 ever, where the source of funds is a loan made in the lender's
24 ordinary course of business, if the person filing such statement so
25 requests, the commisisoner shall not disclose the name of the lender
26 to the public.

27 e. Any plans or proposals which any acquiring party making the
28 acquisition may have to liquidate such state association or savings
29 and loan holding company, to sell its assets or merge it with any
30 company or to make any other major changes in its business or
31 corporate structure or management.

32 f. The identification of any persons employed, retained or to be
33 compensated by the acquiring party, or by any person on his behalf,
34 to make solicitations or recommendations to stockholders for the
35 purpose of assisting in the acquisition, and brief description of the

36 terms of such employment, retainer or arrangements for compensa-
37 tion.

38 g. Copies of all invitations for tenders or advertisements making
39 a tender offer to stockholders for purchase of their stock to be used
40 in connection with the proposed acquisition.

41 When an unincorporated company is required to file the state-
42 ments under subsection a., b. and f., the commissioner may require
43 that the information be given with respect to each partned or a part-
44 nership or limited partnership; by each member of a syndicate or
45 group; and by each person who controls a partner or member.
46 When an incorporated company is required to file the statement
47 under subsections a., b. and f., the commissioner may require that
48 the information be given for the corporation and for each officer
49 and director of the corporation and for each person who is directly
50 or indirectly the beneficial owner of 10% or more of the outstanding
51 voting securities of the corporation.

52 If any tender offer, request or invitation for tenders or other
53 agreement to acquire control is proposed to be made by means of a
54 registration statement under the Federal Securities Act of 1933, as
55 amended, or in circumstances requiring the disclosure of similar
56 information under the Federal Securities Exchange Act of 1934, as
57 amended, or in an application filed with the Federal Home Loan
58 Bank Board requiring similar disclosure, such registration state-
59 ment or application may be filed with the commissioner in lieu of
60 the requirements of this section.

1 46. Action to prevent acquisition of control; findings. The com-
2 missioner shall within 30 days after the date of filing of the applica-
3 tion referred to in section 45 of this amendatory and supplementary
4 act, approve such application unless he finds any of the following:

5 a. The acquisition would substantially lessen competition in any
6 part of the State of New Jersey, unless he finds that such anti-
7 competitive effects of the proposed acquisition are clearly out-
8 weighed in the public interest by the probable effect of the acquisi-
9 tion in meeting the convenience and needs of the community to be
10 served; or

11 b. The poor financial condition of any acquiring party might
12 jeopardize the financial stability of the savings and loan association
13 or the savings and loan holding company being acquired or might
14 prejudice the interest of the account holders, borrowers, or stock-
15 holders of the State association or is not in the public interest; or

16 c. Any plan or proposal under which the acquiring party intends
17 to liquidate the savings and loan association or the savings and loan

18 holding company, to sell its assets or to merger it with any person
 19 or company, or to make any other major change in its business or
 20 corporate structure or management is not fair and reasonable to
 21 the association's account holders, borrowers, or stockholders or is
 22 not in the public interest; or

23 d. The competence, experience, and integrity of any acquiring
 24 party who would control the operation of the State association or
 25 savings and loan holding company indicate that approval would
 26 not be in the interest of the association's account holders, borrow-
 27 ers, or stockholders or in the public interest.

1 47. Penalties. Any person who willfully violates any provision
 2 of this part, or any regulation or order thereunder, is guilty of a
 3 misdemeanor and shall upon conviction be fined not more than
 4 \$1,000.00 for each day during which the violation continues.

ARTICLE XXIII. SEPARABILITY AND EFFECTIVE DATE.

1 48. Separability; partial invalidity. If any provision of this act,
 2 or the application thereof to any person, is held invalid, the re-
 3 maining provisions of this act, and the application of such pro-
 4 vision to any other person, shall not be invalidated or affected
 5 thereby.

1 49. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to provide, on an optional basis, for an alternate method whereby savings and loan associations can raise underlying capital through the issuance of capital stock.

Savings and loan associations in New Jersey, under present law, cannot issue capital stock. They are mutual organizations without capital stock. The law requires that associations maintain reserves. These reserves come from retained earnings. In substance, each year after paying the expenses of operations and before paying interest to the depositors, a certain amount of earnings, as determined by applicable regulations, must be set aside in reserves. The minimum requirement for loss reserves is substantially an amount equal to 5% of savings accounts. The typical requirement appears to work out somewhere between 6½% and 7%.

In the absence of being able to develop retained earnings in adequate amount, one alternative is to curtail growth of savings deposits, which is contrary to the public interest. This would have the effect of diminishing the supply of mortgage money in the State.

During the last two years, reserve ratios have declined because of a combination of growth in savings deposits and an increase in expense of operations. A major purpose of this bill is, therefore, to provide a method whereby associations can become capital stock corporations and build up their reserves by selling stock to those interested in this type of investment.

Laws in 22 states provide for this type of savings and loan association and such savings and loans exist in these states. It should be noted that in all the states which have capital stock savings and loans, there are also very strong mutual savings and loans in existence.

The sale of stock when capital is needed is common to the commercial banking business and every other form of corporation in the country, with the limited exception of mutual savings and loan associations and mutual savings banks. The National Housing Act makes provisions for insurance of all withdrawable accounts in a capital stock as well as a mutual association.

In order to provide for this type of operation, this bill sets forth a method whereby mutual associations may convert from the mutual corporate form to the capital stock corporate form. This bill establishes stringent guidelines for the plan of conversion. Such a plan must be approved by the members of the association, the Commissioner of Banking and, under Federal law, by the Federal Home Loan Bank Board, and must meet the requirements of the Federal Savings and Loan Insurance Corporation.

The bill provides for the imposition of restrictive limitations on the rights of so-called "insiders" to participate in any sale by granting to the Commissioner of Banking the specific power and authority to restrict and regulate participation by so-called "insiders" and their associates. The bill also empowers the commissioner to regulate acquisition of control of any capital stock association.

The capital stock associations would be limited in their investment to the same restrictive limitations that hold for mutual associations; therefore, they would still concentrate on mortgage lending primarily for residential purposes.

FROM THE OFFICE OF THE GOVERNOR

OCTOBER 23, 1974
FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION
DICK CAMPBELL

Governor Brendan Byrne signed into law Wednesday a bill that would permit a limited number of mutual savings and loan associations to convert to capital stock savings and loan associations.

The Bill, S-610, sponsored by Senator James P. Dugan, D-Hudson, would permit savings and loan associations which meet certain qualifications to become capital stock associations. Under terms of the bill, any plan of conversion must be approved by the members of the association, the State Banking Commissioner and the Federal Home Loan Bank Board.

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