



LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1998

CHAPTER:130

NJSA: 46:9-8.1

"Mortgage loans -- lien priority"

BILL NO:A2077 (Substituted for S1087)

SPONSOR(S): Bateman and Biondi

DATE INTRODUCED: May 28, 1998

COMMITTEE:

ASSEMBLY: Banking and Insurance

SENATE: State Government

AMENDED DURING PASSAGE:Yes

DATE OF PASSAGE:

ASSEMBLY: June 29, 1998

SENATE: September 28, 1998

DATE OF APPROVAL: November 9, 1998

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: 1st Reprint

(Amendments during passage denoted by superscript numbers)

A2077

SPONSORS STATEMENT: *Yes* (Begins on page 3 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY:*Yes*

SENATE:*Yes*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

S1087

SPONSORS STATEMENT: *Yes* (Begins on page 3 of original bill)
(Bill and Sponsors Statement identical to A2077)

COMMITTEE STATEMENT:

ASSEMBLY: *No*

SENATE: *Yes*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

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REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

[First Reprint]

ASSEMBLY, No. 2077

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MAY 28, 1998

Sponsored by:

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

Assemblyman PETER J. BIONDI

District 16 (Morris and Somerset)

Co-Sponsored by:

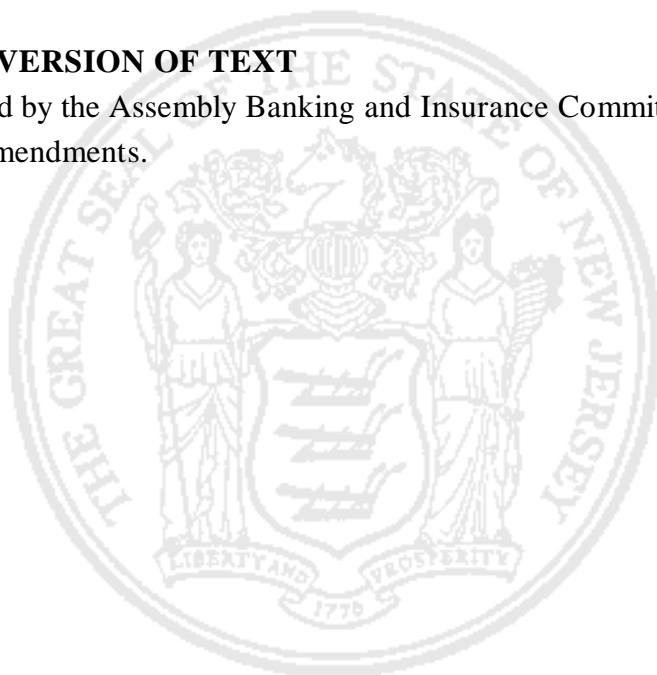
Senators Kavanaugh, Inverso and Robertson

SYNOPSIS

Clarifies priority of certain mortgage loans.

CURRENT VERSION OF TEXT

As reported by the Assembly Banking and Insurance Committee on June 1, 1998, with amendments.



(Sponsorship Updated As Of: 9/29/1998)

1 AN ACT clarifying the priority of certain mortgage loans and amending
2 P.L.1985, c.353.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1985, c.353 (C.46:9-8.1) is amended to read as
8 follows:

9 1. As used in this act:

10 a. "Mortgage loan" means any loan or line of credit, except a
11 construction loan, which states a maximum specified principal amount
12 and which is secured by an interest in real property.

13 b. "Construction loan" means a loan for a fixed term of no more
14 than three years which is secured by a lien on real property and which
15 is made by the lender for the sole purpose of financing the erection,
16 construction, completion, addition to, alteration or repair of
17 improvements to real property.

18 c. "Line of credit" means an agreement whereby a lender is
19 obligated to provide a specified amount of credit to a borrower from
20 time to time. The agreement may include provisions to amend or
21 change the interest rate or terms of repayment and shall be an
22 obligation for the purposes of this section notwithstanding the
23 inclusion of one or more of the following limitations and conditions:

24 (1) An expiration date of the agreement or an option of the lender
25 to cancel the agreement on notice to the borrower;

26 (2) The financial condition of any borrower;

27 (3) Continued compliance by the borrower with the terms of the
28 agreement and any mortgage or security agreement securing the
29 amounts advanced pursuant to the agreement;

30 (4) The absence of an adverse change in the value or condition of
31 any collateral securing the agreement;

32 (5) A requirement of certain procedures for activating the
33 obligation to make advances pursuant to the agreement; or

34 (6) A decision of the lender not to continue to engage in the
35 business of providing lines of credit on terms similar to the agreement.

36 d. "Modification" means:

37 (1) **[A]** With respect to a mortgage loan other than a line of credit,
38 a change in the interest rate, due date or other terms and conditions of
39 a mortgage loan except an advance of principal ; or

40 (2) **[An advance made pursuant to a line of credit or other advance**
41 **of principal,]** With respect to a line of credit, a change in the interest

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ABI committee amendments adopted June 1, 1998.

1 rate, due date or other terms and conditions and an advance of
2 principal made pursuant to the line of credit but only to the extent that
3 the advance does not cause the principal balance due to exceed the
4 principal amount stated in the **[mortgage]** line of credit plus accrued
5 interest ¹ [., payments]:

6 (3) Payments¹ for taxes ¹, assessments¹ and insurance and other
7 payments made by the mortgagee pursuant to the terms of the
8 ¹mortgage or¹ line of credit ¹ [.] are included with the amounts which
9 have priority pursuant to section 2 of P.L.1985, c.353 (C.46:9-8.2)
10 and are not included in the phrase "advance of principal;"

11 (4)¹ "Modification" does not include a substitution in the collateral.
12 (cf: P.L.1997, c.427, s.1)

13

14 2. This act shall take effect immediately.

ASSEMBLY, No. 2077

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MAY 28, 1998

Sponsored by:

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

Assemblyman PETER J. BIONDI

District 16 (Morris and Somerset)

SYNOPSIS

Clarifies priority of certain mortgage loans.

CURRENT VERSION OF TEXT

As introduced.



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2 P.L.1985, c.353.

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5 of New Jersey:

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11 construction loan, which states a maximum specified principal amount
12 and which is secured by an interest in real property.

13 b. "Construction loan" means a loan for a fixed term of no more
14 than three years which is secured by a lien on real property and which
15 is made by the lender for the sole purpose of financing the erection,
16 construction, completion, addition to, alteration or repair of
17 improvements to real property.

18 c. "Line of credit" means an agreement whereby a lender is
19 obligated to provide a specified amount of credit to a borrower from
20 time to time. The agreement may include provisions to amend or
21 change the interest rate or terms of repayment and shall be an
22 obligation for the purposes of this section notwithstanding the
23 inclusion of one or more of the following limitations and conditions:

24 (1) An expiration date of the agreement or an option of the lender
25 to cancel the agreement on notice to the borrower;

26 (2) The financial condition of any borrower;

27 (3) Continued compliance by the borrower with the terms of the
28 agreement and any mortgage or security agreement securing the
29 amounts advanced pursuant to the agreement;

30 (4) The absence of an adverse change in the value or condition of
31 any collateral securing the agreement;

32 (5) A requirement of certain procedures for activating the
33 obligation to make advances pursuant to the agreement; or

34 (6) A decision of the lender not to continue to engage in the
35 business of providing lines of credit on terms similar to the agreement.

36 d. "Modification" means:

37 (1) **[A]** With respect to a mortgage loan other than a line of credit,
38 a change in the interest rate, due date or other terms and conditions of
39 a mortgage loan except an advance of principal ; or

40 (2) **[An advance made pursuant to a line of credit or other advance**
41 **of principal,]** With respect to a line of credit, a change in the interest
42 rate, due date or other terms and conditions and an advance of
43 principal made pursuant to the line of credit but only to the extent that

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

Matter underlined thus is new matter.

1 the advance does not cause the principal balance due to exceed the
2 principal amount stated in the **【mortgage】** line of credit plus accrued
3 interest, payments for taxes and insurance and other payments made
4 by the mortgagee pursuant to the terms of the line of credit.
5 "Modification" does not include a substitution in the collateral.
6 (cf: P.L.1997, c.427, s.1)

7

8 2. This act shall take effect immediately.

9

10

11

STATEMENT

12

13 This bill clarifies that an advance of principal made with respect to
14 a mortgage other than a line of credit does not have the lien priority
15 of the original mortgage; it is not a "modification" pursuant to
16 P.L.1985, c.353 (C.46:9-8.1 et seq.).

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2077

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 1, 1998

The Assembly Banking and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 2077.

This bill, as amended, clarifies that an advance of principal made with respect to a mortgage other than a line of credit does not have the lien priority of the original mortgage; it is not a "modification" pursuant to P.L.1985, c.353 (C.46:9-8.1 et seq.).

Amendments to the bill clarify that payments for taxes, assessments and insurance and other payments made by the mortgagee under the terms of the mortgage or line of credit are to be included in the amount which have priority under section 2 of P.L.1985, c.353(C.46:9-8.2) for first mortgages as well as for second mortgages.

SENATE STATE GOVERNMENT, BANKING AND FINANCIAL
INSTITUTIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2077

STATE OF NEW JERSEY

DATED: SEPTEMBER 17, 1998

The Senate State Government, Banking and Financial Institutions Committee reports favorably Assembly Bill No. 2077 (1R).

This bill clarifies that an advance of principal made with respect to a mortgage other than a line of credit does not have the lien priority of the original mortgage; it is not a "modification" pursuant to P.L.1985, c.353 (C.46:9-8.1 et seq.).

In addition, the bill clarifies that payments for taxes, assessments and insurance and other payments made by the mortgagee under the terms of the mortgage or line of credit are to be included in the amount which have priority under section 2 of P.L.1985, c.353(C.46:9-8.2) for first mortgages as well as for second and subsequent mortgages.

This bill is identical to Senate, No.1087(1R).

SENATE, No. 1087

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MAY 21, 1998

Sponsored by:

Senator WALTER J. KAVANAUGH

District 16 (Morris and Somerset)

Senator PETER A. INVERSO

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senator Robertson

SYNOPSIS

Clarifies priority of certain mortgage loans.

CURRENT VERSION OF TEXT

As introduced.



S1087 KAVANAUGH, INVERSO

2

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15 is made by the lender for the sole purpose of financing the erection,
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19 obligated to provide a specified amount of credit to a borrower from
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23 inclusion of one or more of the following limitations and conditions:

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Matter underlined thus is new matter.

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3 interest, payments for taxes and insurance and other payments made
4 by the mortgagor pursuant to the terms of the line of credit.
5 "Modification" does not include a substitution in the collateral.
6 (cf: P.L.1997, c.427, s.1)

7

8 2. This act shall take effect immediately.

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STATEMENT

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16 P.L.1985, c.353 (C.46:9-8.1 et seq.).

SENATE STATE GOVERNMENT, BANKING AND FINANCIAL
INSTITUTIONS COMMITTEE

STATEMENT TO

SENATE, No. 1087

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 17, 1998

The Senate State Government, Banking and Financial Institutions Committee reports favorably and with committee amendments, Senate Bill No. 1087.

This bill, as amended, clarifies that an advance of principal made with respect to a mortgage other than a line of credit does not have the lien priority of the original mortgage; it is not a "modification" pursuant to P.L.1985, c.353 (C.46:9-8.1 et seq.).

In addition, the bill clarifies that payments for taxes, assessments and insurance and other payments made by the mortgagee under the terms of the mortgage or line of credit are to be included in the amount which have priority under section 2 of P.L.1985, c.353(C.46:9-8.2) for first mortgages as well as for second and subsequent mortgages.

As amended, Senate, No. 1087 is identical to Assembly, No. 2077 (1R).

COMMITTEE AMENDMENTS

The committee amended the bill to clarify that payments for taxes, assessments and insurance and other payments made by the mortgagee under the terms of the mortgage or line of credit are to be included in the amount which have priority under section 2 of P.L.1985, c.353(C.46:9-8.2) for first mortgages as well as for second and subsequent mortgages.

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

CONTACT: Jayne O'Connor
Gene Herman
609-777-2600

RELEASE: November 10, 1998

Gov. Christie Whitman today signed the following legislation:

A-63 allows beneficiaries of the Pharmaceutical Assistance for the Aged and Disabled (PAAD) program to receive the longer of 100 pills or a 34-day supply of medication for both the initial prescription and refills. Changes in the Fiscal Year 1999 Appropriations bill had limited to a 34-day maximum supply.

The bill was sponsored by Assembly Members Francis J. Blee (R-Atlantic), John C. Gibson (R-Cape May/Atlantic/Cumberland) and Kenneth C. LeFevre (R-Atlantic) and Guy F. Talarico (R-Bergen) and Senators Norman M. Robertson (R-Essex/Passaic) and Robert W. Singer (R-Burlington/Monmouth/Ocean).

A-809, sponsored by Assembly Member Charlotte Vandervalk (R-Bergen) and Senator Jack Sinagra (R-Middlesex), permits physician assistant to order or prescribe drugs, excluding controlled dangerous substances, both outpatient and inpatient settings. The bill requires that a supervising physician countersign and order or prescription for drugs within 48 hours of its entry by a physician assistant in an outpatient setting. The bill changes current law, which permits physician assistants to order or prescribe drugs only in an inpatient setting.

A-1332, sponsored by Assembly Members Rose Marie Heck (R-Bergen) and Guy F. Talarico (R-Bergen) and Senators Anthony R. Bucco (R-Morris) and Joseph M. Kyrillos, Jr. (R-Middlesex/Morris), clarifies that the depiction and dissemination of child pornography on the Internet is a crime under the endangering the welfare of a child statute. Endangering the welfare of a child is a second-degree crime when, among other things, a person causes or permits a child under 16 to engage in a sexual act knowing the act will be photographed or otherwise reproduced; photographs or reproduces a child engaged in a sexual act; or receives for the purpose of selling, sells or transfers a photograph of a child engaged in a sexual act.

The bill also upgrades to a crime of the first degree the offense of causing or permitting a child to engage in a sexual act knowing the act will be photographed, filmed or otherwise reproduced when the defendant is the child's parent or guardian. A first-degree crime is punishable by a prison term of between 10 and 20 years, a fine of \$200,000 or both, while a second-degree crime is punishable by a prison term of between five and 10 years and a fine of up to \$150,000 or both.

A-1511 amends current law to require that certain parents undergo substance abuse assessment when a court makes a finding of abuse or neglect and orders out-of-home

placement for a child. If the law reveals positive evidence of substance abuse, the parent must demonstrate that he or she is receiving treatment and complying with the treatment program before the child is returned to the parental home. Under previous law, a parent was required to demonstrate progress in reaching the goals that Division of Youth and Family Services established as part of a treatment program in order for a child to be returned to the home. The bill also appropriates \$50,000 for substance abuse treatment.

The bill was sponsored by Assembly Members Joseph R. Malone, 3d (R-Burlington/Monmouth/Ocean and Melvin Cottrell (R-Burlington/Monmouth/Ocean) and Senator Robert W. Singer (R-Burlington/Monmouth/Ocean).

A-1632, sponsored by Assembly Members Gerald J. Luongo (R-Camden/Gloucester) and Peter J. Biondi (R-Morris/Somerset) and Senators Diane B. Allen (R-Burlington/Camden) and Norman M. Robertson (R-Essex/Passaic), establishes the Senior and Disabled Cooperative Housing Finance Incentive Program. The bill assists non-profit corporations in providing cooperative living opportunities for low and moderate-income senior citizens and citizens with disabilities.

The bill authorizes the New Jersey Housing and Mortgage Finance Agency to set aside some portion of its bonding capacity in order to provide mortgage loans to eligible purchasers and to assist qualified non-profit corporations in creating eligible projects.

A-1976, sponsored by Assembly Members Joseph V. Doria, Jr. (D-Hudson) and Alex DeCroce (R-Essex/Morris/Passaic), provides that surcharges levied by the Division of Motor Vehicles (DMV) are extinguished upon an individual's death once the DMV obtains a copy of the driver's death certificate. The bill also requires that the DMV obtain a death certificate when the decedent's family or estate representative does not provide the DMV with a copy of the document. Under previous practice, the DMV extinguished a decedent's surcharges when a death certificate was provided by the family of the deceased. If the certificate was not received from the family, the DMV continued to mail surcharge notices to the decedent's family

A-2077 rectifies a problem created by a previous law, A-2323, which inadvertently changed the definitions regarding modifications of open-ended and close-ended loans.

The bill clarifies that an advance of principal made with respect to any mortgage (open-ended or close-ended) other than a line of credit does not have the lien priority of the original mortgage and is not a mortgage modification.

The bill was sponsored by Assembly Members Christopher "Kip" Bateman (R-Morris/Somerset) and Peter J. Biondi (R-Morris/Somerset) and Senators Walter J. Kavanaugh (R-Morris/Somerset) and Peter A. Inverso (R-Mercer/Middlesex).

A-2223, expands the number of persons eligible to receive the New Jersey Distinguished Service Medal (DSM) from the Governor to include any state resident who was a resident of the state at the time of entry into active military service and saw active military service in a combat theater and received an honorable discharge. The expansion would also apply to deceased persons. The bill also gives the Governor the

authority to issue the DSM to residents who saw active combat service and were officially listed as a POW/MIA by the United States Department of Defense. The Department of Military and Veterans' Affairs will establish regulatory standards requiring a finding of distinguished service prior to its recommendation to the Governor to award the medal.

Under previous law, the Governor, on behalf of the state, could issue a DSM to persons who distinguished themselves by especially meritorious service and who had been cited or were expected to be cited in orders for distinguished service by the Governor or appropriate federal authority.

The legislation was sponsored by Assembly Members Louis D. Greenwald (D-Camden) and Joseph Azzolina (R-Middlesex/Morris) and Senators Diane B. Allen (R-Burlington/Camden) and John J. Mattheusen (R-Camden/Gloucester).

S-158, sponsored by Senators Joseph M. Kyrillos, Jr. (R-Middlesex/Monmouth) and Andrew R. Ciesla (R-Monmouth/Ocean) and Assembly Members Joseph Azzolina (R-Middlesex/Monmouth) and Michael J. Arnone (R-Monmouth), exempts certain shops operated to raise money for charity from state sales and use tax. The bill applies to shops run in support of organizations that are already exempt from paying the sales tax. The exemption includes any organization operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes. It also exempts any organizations operated for the prevention of cruelty to children or animals; any voluntary fire, rescue, ambulance, first aid or emergency company or squad, and any parent-teachers association.

S-700, sponsored by Senator Diane B. Allen (R-Burlington/Camden), allows Burlington Island to enter into a long-term lease to promote development designed only for recreational, conservational, educational and cultural purposes. The island's charter, established in 1852, limited to five the number of years island property could be leased for any purpose.

S-877, sponsored by Senator Shirley K. Turner (D-Mercer), requires the State Board of Education, in consultation with the Commissioner of the Department of Health and Senior Services (DHSS) to promulgate rules and regulations for the certification of persons employed by boards of education to teach swimming in public schools. The bill requires that the regulations include appropriate swimming and first aid skills necessary to protect the health and safety of students. Currently, safety standards specified in DHSS regulations require the presence of at least one person currently certified in standard first aid and cardiopulmonary resuscitation (CPR). That person must be available and readily accessible when the pool is in use. Additionally, the regulations require that at least one lifeguard be on duty for 60 or less swimmers or 2,000 square feet of surface space at all times when the pool is in use. Additional lifeguards are required based on a variety of specified factors.

S-888, sponsored by Senator Norman M. Robertson (R-Essex/Passaic) and Assembly Members Kenneth C. LeFevre (R-Atlantic) and Francis J. Blee (R-Atlantic), permits the release of certain account information by a financial institution under certain

circumstances. The bill allows the release of account information to a law enforcement agency or a county protective adult services provider if the customer account is held by a senior citizen or "vulnerable" person -- defined in the bill as a person over 18 that appears to have a physical or mental illness, disability or deficiency, etc. The bill parallels federal law allowing financial institutions to release account information to certain federal law enforcement officials.

S-955, revises the Garage Keepers Lien Act by eliminating the requirement that a motor vehicle owner post the full amount of a disputed bill or a double bond before a pre-sale hearing. The bill provides that if possession of a vehicle is refused because of a dispute over the amount owned or nonpayment, the owner may immediately bring an action in court for possession of the vehicle. The bill was sponsored by Senator John Q. Bennett (R-Monmouth) and Assembly Members Richard A. Merkt (R-Morris) and Michael Patrick Carroll (R-Morris).

S-1055, sponsored by Senator Leonard T. Connors, Jr. (R-Atlantic/Burlington/Ocean) and Gerald Cardinale (R-Bergen), prohibits charitable organizations from misleading contributors to believe their donations are to be used for charitable purposes when, in fact, the donations are used to fund legal costs and other administrative costs of the charitable organization. The bill also prohibits organizations from presenting truthful information, statements and communications in such a way that the contributor is misled into making a contribution.

AJR-21, sponsored by Assembly Member Alex DeCroce (R-Essex/Morris/Passaic), establishes an 18-member Regional Intergovernmental Transportation Coordinating Study Commission to increase regional transportation decision-making among various levels of government and to identify incentives to promote cooperation. The commission will consist of 12 public members to be appointed by the Governor; two members of both the Senate and the General Assembly; Commissioner of the Department of Transportation and the Director of the Office of State Planning.

AJR-30, sponsored by Assembly Members Marion Crecco (R-Essex/Passaic) and Gerald J. Luongo (R-Camden/Gloucester), designates November 20 of each year as "Bill of Rights Day" in New Jersey. The first ten amendments of the U. S. Constitution, known as the Bill of Rights, were ratified by the State of New Jersey on November 20, 1789.