

17:1C-33

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 199

NJSA: 17:1C-33 (Establishes an assessment funding mechanism for the support of Division of Banking)

BILL NO A3176 (Substituted for S1760)

SPONSOR(S): Cryan and Malone

DATE INTRODUCED: September 13, 2004

COMMITTEE: **ASSEMBLY:** Budget
SENATE:

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 27, 2005

SENATE: June 30, 2005

DATE OF APPROVAL: August 18, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (1st reprint enacted)

A3176

[SPONSOR'S STATEMENT:](#) (Begins on page 14 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

S1760

[SPONSOR'S STATEMENT:](#) (Begins on page 14 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes [5-26-2005 \(Commerce\)](#)
[6-16-2005 \(Bud & App\)](#)

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

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P.L. 2005, CHAPTER 199, *approved August 18, 2005*
Assembly, No. 3176 (*First Reprint*)

1 **AN ACT** establishing an assessment funding mechanism for the support
2 of the Division of Banking in the Department of Banking and
3 Insurance, imposing certain additional fees and amending and
4 supplementing various parts of the statutory law.

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

8
9 1. (New section) a. The Legislature finds and declares that:

10 (1) The Division of Banking has a statutory obligation to protect
11 the interests of New Jersey's consumers and to regulate and oversee
12 the operations of the financial industry it charters, licenses and
13 registers.

14 (2) In order to maintain an adequate level of oversight and
15 supervision, and to perform its regulatory responsibilities, it is
16 necessary to establish an assessment funding mechanism for the
17 division's special needs.

18 (3) A banking assessment funding source is a clear indication of the
19 commitment that the State of New Jersey has made to the special
20 needs of the Division of Banking relative to its administrative activities
21 with regard to the financial regulation, supervision and monitoring of
22 the depository institutions and other financial entities it charters,
23 licenses and registers.

24 (4) A dedicated funding mechanism for the Division of Banking is
25 in the public interest.

26 b. The Legislature therefore intends for the actual incurred
27 expenses of the Division of Banking for all services related to the
28 division's financial regulation, supervision and monitoring of
29 depository institutions and other financial entities it charters, licenses
30 and registers to be assessed among these depository institutions,
31 licensees and registrants.

32
33 2. (New section) For the purposes of this act:

34 "Assessment" means the assessment imposed pursuant to section 3
35 of this act for the special functions of the division as provided in that
36 section.

37 "Commissioner" means the Commissioner of Banking and
38 Insurance.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and 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 ABU committee amendments adopted June 23, 2005.

1 "Department" means the Department of Banking and Insurance.

2 "Depository institution" means any entity holding a state charter for
3 a bank, savings bank, savings and loan association or credit union,
4 irrespective of whether the entity accepts deposits.

5 "Division" means the Division of Banking in the Department of
6 Banking and Insurance.

7 "Other financial entity" means a person who is licensed or
8 registered pursuant to: the "New Jersey Licensed Lenders Act,"
9 P.L.1996, c.157 (C.17:11C-1 et seq.); "The Check Cashers Regulatory
10 Act of 1993," P.L.1993, c.383 (C.17:15A-30 et seq.); the "New Jersey
11 Money Transmitters Act," P.L.1998, c.14 (C.17:15C-1 et seq.); the
12 "Insurance Premium Finance Company Act," P.L.1968, c.221
13 (C.17:16D-1 et seq.); the "Retail Installment Sales Act of 1960,"
14 P.L.1960, c.40 (C.17:16C-1 et seq.); the "Door-to-Door Retail
15 Installment Sales Act of 1968," P.L.1968, c.223 (C.17:16C-61.1 et
16 seq.); the "Home Repair Financing Act," P.L.1960, c.41 (C.17:16C-93
17 et seq.); the "Door-to-Door Home Repair Sales Act of 1968,"
18 P.L.1968, c.224 (C.17:16C-95 et seq.); P.L.1979, c.16 (C.17:16G-1
19 et seq.); or the "pawnbroking law," R.S.45:22-1 et seq.

20 "Regulated entity" means a depository institution, other financial
21 entity or person chartered, licensed or registered by the Division of
22 Banking or who should be chartered, licensed or registered.

23

24 3. (New section) a. The Director of the Division of Budget and
25 Accounting in the Department of the Treasury shall, on or before
26 August 15 in each year, ascertain and certify to the commissioner by
27 category the total amount of expenses incurred by the State in
28 connection with the administration of the special functions of the
29 Division of Banking in the Department of Banking and Insurance
30 relative to the financial regulation, supervision and monitoring of
31 depository institutions and other financial entities it licenses during the
32 preceding fiscal year. Those expenses shall include, in addition to the
33 direct cost of personal service, the cost of maintenance and operation,
34 the cost of employee benefits and the workers' compensation paid for
35 and on account of personnel, rentals for space occupied in
36 State-owned or State-leased buildings and all other direct and indirect
37 costs of the administration of those functions of the department, as
38 well as any amounts remaining uncollected from the assessment of the
39 previous fiscal year. Certification made pursuant to this subsection
40 shall be made by the Director of the Division of Budget and
41 Accounting.

42 b. (1) Upon receipt of the certification made by the Director of the
43 Division of Budget and Accounting pursuant to subsection a. of this
44 section, but no later than September 1 in each year following the close
45 of the previous fiscal year, the commissioner shall issue, in accordance
46 with the provisions of this section, the assessment for the amount of

1 the expenses incurred by, or on behalf of, the department for those
2 special purposes recognized in this act.

3 (2) Assessments made pursuant to this section shall be distributed
4 among all regulated entities in accordance with regulations
5 promulgated by the commissioner pursuant to the "Administrative
6 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

7 c. The commissioner shall certify the amount of the assessment
8 issued to each regulated entity. Each regulated entity shall remit the
9 amount so certified and assessed to it to the department in accordance
10 with the procedures established in this act. Amounts collected by the
11 department shall be used for reimbursement to the State for expenses
12 incurred in connection with the special functions of the division
13 relative to the financial regulation, supervision and monitoring of
14 depository institutions and other financial entities it charters, licenses
15 or registers, provided that the amount collected for those expenses
16 shall not exceed the amount appropriated by the Legislature for those
17 expenses.

18

19 4. (New section) Within 15 days after the date of mailing a
20 statement of the assessment as provided in this act, a regulated entity
21 may file its objections to its assessment with the commissioner. Upon
22 receiving those objections, the commissioner shall either: amend the
23 statement as warranted, consistent with sections 5 and 6 of this act; or
24 schedule and send a notice of a hearing on the objections, which
25 hearing shall be held not less than 30 nor more than 60 days after the
26 date of the notice.

27

28 5. (New section) If upon receiving the objections, or after the
29 hearing, the commissioner finds any part of the assessment against the
30 objecting regulated entity excessive, erroneous, unlawful or invalid, he
31 shall transmit to the objector, by registered mail, his findings and an
32 amended statement of the assessment in accordance with those
33 findings, which shall have the same force and effect as an original
34 statement of the assessment. If the commissioner finds the entire
35 statement of the assessment unlawful or invalid, he shall notify the
36 objector, by registered mail, of that determination, and the original
37 statement of the assessment shall be null and void. If the
38 commissioner finds that the statement as rendered is neither excessive,
39 erroneous, unlawful or invalid, in whole or in part, he shall transmit
40 notice thereof to the objector by registered mail.

41

42 6. (New section) If a statement of the assessment against which
43 objections are filed is not paid in full within 30 days after the date of
44 mailing to the objector of notice of a finding that the objections have
45 been disallowed; or if an amended statement of the assessment is not
46 paid within 30 days of the date a copy thereof is mailed by registered

1 mail to the objector, the commissioner shall give notice of the
2 delinquency to the State Treasurer and to the objector, and the State
3 Treasurer shall proceed to make the collection.

4

5 7. (New section) No action for recovery of an amount paid under
6 this act shall be maintained in any court unless objections have been
7 filed with the commissioner. In an action for recovery of any
8 payments, plaintiff may raise any relevant issue of law, but the
9 commissioner's findings of fact shall be presumptive evidence of the
10 facts therein stated.

11

12 8. (New section) No action or proceeding shall be maintained in
13 any court for the purpose of restraining or delaying the collection or
14 payment of a statement of the assessment rendered in accordance with
15 the provisions of this act. A regulated entity against which a statement
16 of the assessment is rendered shall pay the amount thereof, and after
17 the payment may, in the manner provided by this act at any time within
18 two years from the date of the payment, bring an action at law against
19 the State to recover the amount paid, with legal interest thereon from
20 the date of payment, upon the ground that the assessment was
21 excessive, erroneous, unlawful or invalid, in whole or in part.

22

23 9. (New section) The procedure provided in this act for
24 determining the lawfulness of statements of the assessment and the
25 recovery of payments made pursuant to those statements of the
26 assessment shall be exclusive of all other remedies and procedures.

27

28 10. (New section) If any regulated entity to which a statement of
29 the assessment as provided in this act has been mailed fails or refuses
30 to pay the amount within 30 days, or fails to file with the
31 commissioner objections to the statement of the assessment as
32 provided in this act, the commissioner shall transmit to the State
33 Treasurer a certified copy of both the statement of the assessment and
34 the notice of the neglect or refusal of the regulated entity to pay the
35 amount thereof, and at the same time shall mail by registered mail to
36 the entity a copy of the items transmitted to the State Treasurer.

37

38 11. (New section) Within 10 days after receipt of the notice and
39 certified copy of the statement of the assessment, the State Treasurer
40 shall proceed to collect the amount stated to be due, with legal
41 interest, by seizure and sale of any goods or chattels, including stocks,
42 securities, bank accounts, surety bonds, realty, evidences of debt and
43 accounts receivable belonging to the regulated entity anywhere within
44 the State. The State Treasurer shall not seize any goods or chattels
45 held by the regulated entity on behalf of another.

1 12. (New section) As an additional remedy, the State Treasurer
2 may issue a certificate to the Clerk of the Superior Court, that a
3 regulated entity is indebted under this act in an amount stated in the
4 certificate. The clerk shall immediately enter upon his record of
5 docketed judgments the name of the regulated entity, and of the State,
6 the amount of debt so certified, and the date of the entry. The entry
7 shall have the same force and effect as the entry of a docketed
8 judgment in the office of the clerk, and the State Treasurer shall have
9 all the remedies and may take all of the proceedings for the collection
10 thereof which may be had or taken upon the recovery of a judgment
11 in an action, but without prejudice to the regulated entity's right of
12 appeal.

13

14 13. (New section) a. Notwithstanding any law or regulation to the
15 contrary, a regulated entity paying the amounts assessed to it in
16 statements of the assessment made pursuant to section 3 of this act
17 shall be exempt from all fees or charges imposed by the division
18 pursuant to any other provision of law or regulation, except for:

19 (1) charter fees;

20 (2) application fees for licenses;

21 (3) mortgage solicitor registration application fees;

22 (4) fees for entry by a foreign depository institution whether from
23 another state of the United States or from another country into New
24 Jersey for branch, trust or other activities;

25 (5) fees charged under the "Governmental Unit Deposit Protection
26 Act," P.L.1970, c.236 (C.17:9-41 et seq.);

27 (6) fees charged any entity not chartered, licensed or registered by
28 this State, including but not limited to activities conducted by foreign
29 banks pursuant to section 316 of P.L.1948, c.47 (C.17:9A-316) or
30 foreign associations pursuant to section 214 of P.L.1963, c.144
31 (C.17:12B-214); and

32 (7) fees charged qualified corporations authorized pursuant to
33 section 213 of P.L.1948, c.67 (C.17:9A-213) to perform either
34 registrar and transfer agent activities or activities permitted for
35 qualified educational institutions.

36 b. Nothing in this section shall exempt a regulated entity from
37 paying any fine or penalty imposed by the commissioner for a violation
38 of a statute or regulation.

39 c. Except as provided in paragraph (1) of subsection d. of section
40 7 of the "New Jersey Home Ownership Security Act of 2002,"
41 P.L.2003, c.64 (C.46:10B-28), all fees, charges, fines and penalties as
42 described in subsections a. and b. of this subsection shall be remitted
43 to the State Treasurer for deposit into the General Fund, and those
44 fees, charges, fines and penalties shall not be part of the assessment
45 funding mechanism or considered in the calculation pursuant to section
46 15 of this act.

1 14. (New section) a. The State Treasurer and the commissioner
2 may adopt rules and regulations, pursuant to the "Administrative
3 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
4 the purposes of this act.

5 b. Any regulation promulgated by the commissioner shall describe
6 the factors to be considered in computing the assessment. In the case
7 of depository institutions, the assessment shall consider the following
8 factors as appropriate: assets, deposits or shares, trust funds under
9 management and the supervisory rating of the institution. In the case
10 of licensees or registrants, the assessment shall consider the following
11 factors as appropriate: loan volume, volume of money transmitted,
12 number of transactions, volume of checks cashed, number of licensee
13 branches, number of authorities held under the "New Jersey Licensed
14 Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.) and the
15 supervisory rating of the entity. In computing the assessment for
16 depository institutions, licensees or registrants, the commissioner may
17 consider those additional factors the commissioner deems appropriate.

18 c. The general purpose of the computations to determine the
19 assessment shall be to distribute the financial burden proportionally
20 among the depository institutions and other financial entities it
21 charters, licenses and registers consistent with the division's regulatory
22 activities.

23 d. The commissioner shall provide for the orderly and fair
24 transition to assessments on existing charters, licensees and registrants
25 by promulgating rules and regulations and by establishing
26 administrative procedures that are reasonable, necessary and consistent
27 with this act.

28 ¹e. The commissioner shall consider the impact of the assessment
29 on check cashers licensed pursuant to P.L.1993, c.383 (C.17:15A-30
30 et seq.), and may take any appropriate action pursuant to the
31 commissioner's authority to limit fees as provided in section 14 of
32 P.L.1993, c.383 (C.17:15A-43).¹

33
34 15. (New section) a. The total amount assessable to regulated
35 entities in any fiscal year for the assessment established by this act
36 shall not exceed the lesser of:

37 (1) the total amount of expenses incurred by the State in connection
38 with the administration of the special functions of the division pursuant
39 to section 3 of this act during the preceding fiscal year as ascertained
40 by the Director of the Division of Budget and Accounting in the
41 Department of the Treasury, on or before August 15 in each year, and
42 certified to the commissioner by category;¹ or¹

43 (2) .00015 times the sum of (a) the total assets for State-chartered
44 banks, savings banks, and savings and loan associations for the
45 preceding calendar year plus (b) the total loan volume for residential
46 mortgage loans closed by licensed lenders pursuant to the "New Jersey

1 Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.)¹ [; or
2 (3) mortgage solicitor registration application fees]¹.

3 b. In calculating the assessments:

4 (1) Banks, savings banks and savings and loan associations shall be
5 given prorated credit for unused portions of assessment periods; and

6 (2) Licensees shall be given prorated credit for unused portions of
7 licensing periods.

8 c. The department shall not issue an examination bill for an
9 examination that has not been completed by the date that the regulated
10 entity becomes subject to the assessment pursuant to the provisions of
11 this act. For the purposes of this act, the completion of the
12 examination shall not include the time to process and review the
13 examination report.

14

15 16. (New section) a. A depository institution that submits figures
16 on assets, deposits or any other factor used by the department to
17 compute the depository institution's assessment that are substantially
18 or materially in error shall be liable for an administrative penalty not
19 to exceed \$10,000 for each submission that contains incorrect
20 information.

21 b. A licensee that submits figures on loan volume, number of
22 branches, or any other factor used by the department to compute the
23 licensee's assessment that are substantially or materially in error shall
24 be liable for an administrative penalty not to exceed \$10,000 for each
25 submission that contains incorrect information.

26 c. In addition to any monetary penalty that may be imposed against
27 a licensee pursuant to subsection b. of this section, the commissioner
28 may take action to revoke, suspend or refuse to renew the license of
29 a licensee that submits substantially or materially erroneous figures in
30 violation of the provisions of this act. The suspension, revocation or
31 refusal to renew a license shall be in addition to any monetary penalty
32 imposed pursuant to subsection b. of this section.

33 d. The administrative penalty authorized pursuant to this section
34 may be recovered in a summary proceeding in accordance with the
35 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et
36 seq.). A willful violation of this section shall be considered a crime of
37 the third degree.

38

39 17. Section 8 of P.L.1996, c.157 (C.17:11C-8) is amended to read
40 as follows:

41 8. a. Every application for an initial license shall be accompanied
42 by an application fee [of not more than \$500, as established by the
43 commissioner by regulation] as set forth in subsection d. of this
44 section. When the applicant at the same time seeks a license to engage
45 in more than one activity, only one application fee may be charged.
46 [The] With respect to a license fee imposed prior to the

1 implementation of the assessment pursuant to P.L. c. (C.)(now
2 before the Legislature as this bill), the license fee, as prescribed by the
3 commissioner by regulation, shall be based on the number of the
4 following activities in which the person is licensed to engage under this
5 act or the "Retail Installment Sales Act of 1960," P.L.1960, c.40
6 (C.17:16C-1 et seq.): a mortgage banker or mortgage broker; a
7 secondary lender; a consumer lender; or a sales finance company. The
8 fee for a biennial license or a renewal thereof shall be set according to
9 the following schedule:

10 (1) If the person is licensed to engage in one activity, the fee shall
11 not be more than \$3,000;

12 (2) If the person is licensed to engage in two activities, the fee shall
13 not be more than \$4,000;

14 (3) If the person is licensed to engage in three activities, the fee
15 shall not be more than \$5,000; and

16 (4) If the person is licensed to engage in all four activities, the fee
17 shall not be more than \$6,000.

18 Upon implementation of the assessment pursuant to P.L. , c.
19 (C.)(now before the Legislature as this bill), a license fee shall no
20 longer be imposed or collected by the commissioner pursuant to this
21 section.

22 b. When the initial license is issued in the second year of the
23 biennial licensing period, the license fee shall equal one-half of the
24 license fee for the biennial period set forth above. In lieu of, or in
25 addition to, the fees set forth above, the department may impose other
26 fees and charges as provided by regulation.

27 c. An applicant for a mortgage solicitor registration pursuant to
28 subsection c. of section 3 of P.L.1996, c.157 (C.17:11C-3) shall be
29 subject to a mortgage solicitor registration application fee, not to
30 exceed \$100 as established by the commissioner by regulation. A
31 solicitor who changes his registration to a different licensee shall be
32 required to submit a new registration application and to pay an
33 application fee.

34 d. An applicant shall pay to the commissioner at the time of the
35 initial application for a license an application fee not to exceed the
36 amounts specified in this subsection:

37 (1) For an application for one activity, an application fee not to
38 exceed \$700;

39 (2) For an application for two activities, an application fee not to
40 exceed \$1,000;

41 (3) For an application for three activities, an application fee not to
42 exceed \$1,300; and

43 (4) For an application for four activities, an application fee not to
44 exceed \$1,600.

45 e. A licensee that seeks to add an additional activity to an existing
46 license shall pay a fee not to exceed \$300 per activity.

1 f. Fee amounts shall be prescribed by the commissioner by
2 regulation.

3 (cf: P.L.1996, c.157, s.8)

4

5 18. Section 8 of P.L.1960, c.40 (C.17:16C-8) is amended to read
6 as follows:

7 8. 【Every】 With respect to a license fee imposed prior to the
8 implementation of the assessment pursuant to P.L. , c. (C.)(now
9 before the Legislature as this bill), every motor vehicle installment
10 seller shall pay to the commissioner at the time of making the
11 application and biennially thereafter upon renewal a license fee for its
12 principal office and for each additional place of business conducted in
13 this State. The commissioner shall charge for a license such fee as he
14 shall prescribe by rule or regulation. Each fee shall not exceed
15 \$300.00. The license shall run from the date of issuance to the end of
16 the biennial period. When the initial license is issued in the second
17 year of the biennial licensing period, the fee shall be an amount equal
18 to one-half of the license fee for the biennial licensing period. Upon
19 implementation of the assessment pursuant to P.L. , c. (C.)(now
20 before the Legislature as this bill), a license fee shall no longer be
21 imposed or collected by the commissioner pursuant to this section,
22 however a motor vehicle installment seller shall pay to the
23 commissioner at the time of application an application fee not to
24 exceed \$300.00.

25 (cf: P.L.1981, c.321, s.2)

26

27 19. Section 18 of P.L.1960, c.40 (C.17:16C-18) is amended to
28 read as follows:

29 18. Every retail seller, sales finance company, motor vehicle
30 installment seller and holder shall maintain at its place or places of
31 business in this State such books, accounts and records relating to all
32 transactions within this act as will enable the commissioner to enforce
33 full compliance with the provisions of this act.

34 (cf: P.L.1960, c.40, s.18)

35

36 20. Section 19 of P.L.1960, c.40 (C.17:16C-19) is amended to
37 read as follows:

38 19. All books, accounts and records of the licensee shall be
39 preserved and kept available as provided herein for such period of time
40 as the commissioner may by regulation require. The commissioner
41 may require a licensee to file an annual report containing that
42 information required by the commissioner by regulation concerning
43 business conducted as a licensee in the preceding calendar year. The
44 report shall be submitted under oath and in the form specified by the
45 commissioner by regulation.

46 (cf: P.L.1960, c.40, s.19)

1 21. Section 21 of P.L.1960, c.41(C.17:16C-82) is amended to read
2 as follows:

3 21. (a) 【Every】 With respect to a license fee imposed prior to the
4 implementation of the assessment pursuant to P.L. , c. (C.)(now
5 before the Legislature as this bill, every home financing agency shall
6 pay to the commissioner at the time of making the application and
7 biennially thereafter upon renewal a license fee for its principal place
8 of business and for each additional place of business conducted in this
9 State. The commissioner shall charge for a license such fee as he shall
10 prescribe by rule or regulation. Each fee shall not exceed \$600.00.
11 The license shall run from the date of issuance to the end of the
12 biennial period. When the initial license is issued in the second year of
13 the biennial licensing period, the license fee shall be an amount equal
14 to one-half of the fee for the biennial licensing period. Upon
15 implementation of the assessment pursuant to P.L. , c. (C.)(now
16 before the Legislature as this bill), a license fee shall no longer be
17 imposed or collected by the commissioner pursuant to this section,
18 however a home financing agency shall pay to the commissioner at the
19 time of application an application fee not to exceed \$600.00.

20 (b) 【Every】 With respect to a license fee imposed prior to the
21 implementation of the assessment pursuant to P.L. , c. (C.)(now
22 before the Legislature as this bill, every home repair contractor shall
23 pay to the commissioner at the time of making the application and
24 biennially thereafter upon renewal a license fee for its principal place
25 of business and for each additional place of business conducted in this
26 State. The commissioner shall charge for a license such fee as he shall
27 prescribe by rule or regulation. Each fee shall not exceed \$300.00.
28 The license shall run from the date of issuance to the end of the
29 biennial period. When the initial license is issued in the second year of
30 the biennial licensing period, the license fee shall be an amount equal
31 to one-half of the fee for the biennial licensing period. Upon
32 implementation of the assessment pursuant to P.L. , c. (C.)(now
33 before the Legislature as this bill), a license fee shall no longer be
34 imposed or collected by the commissioner pursuant to this section,
35 however a home repair contractor shall pay to the commissioner at the
36 time of application an application fee not to exceed \$300.00.

37 (c) 【Every】 With respect to a license fee imposed prior to the
38 implementation of the assessment pursuant to P.L. , c. (C.)(now
39 before the Legislature as this bill, every home repair salesman shall pay
40 to the 【commission】 commissioner at the time of making the
41 application and biennially thereafter upon renewal a license fee. The
42 commissioner shall charge for a license such fee as he shall prescribe
43 by rule or regulation, not to exceed \$60.00. The license shall run from
44 the date of issuance to the end of the biennial period. When the initial
45 license is issued in the second year of the biennial licensing period, the
46 license fee shall be an amount equal to one-half of the fee for the

1 biennial licensing period. Upon implementation of the assessment
2 pursuant to P.L. , c. (C.)(now before the Legislature as this
3 bill), a license fee shall no longer be imposed or collected by the
4 commissioner pursuant to this section, however a home repair
5 salesman shall pay to the commissioner at the time of application an
6 application fee not to exceed \$60.00.

7 (cf: P.L.1981, c.321, s.3)

8

9 22. Section 26 of P.L.1960, c. 41 (C.17:16C-87) is amended to
10 read as follows:

11 26. a. Every home repair contractor, home financing agency and
12 holder of a home repair contract shall maintain at its place or places of
13 business such books, accounts and records relating to all transactions
14 under this act as will enable the commissioner to enforce full
15 compliance with the provisions hereof. All such books, accounts and
16 records shall be preserved and kept available for such period of time
17 as the commissioner may by regulation require. The commissioner
18 may prescribe the minimum information to be shown in such books,
19 accounts and records of the licensee so that such records will enable
20 the commissioner to determine compliance with the provisions of this
21 act.

22 b. The commissioner may require a licensee to file an annual report
23 containing that information required by the commissioner by regulation
24 concerning business conducted as a licensee in the preceding calendar
25 year. The report shall be submitted under oath and in the form
26 specified by the commissioner by regulation.

27 (cf: P.L.1960, c.41, s.26)

28

29 23. Section 4 of P.L.1968, c.221 (C.17:16D-4) is amended to read
30 as follows:

31 4. Licenses. No person shall engage in the business of financing
32 insurance premiums in this State without first having obtained a license
33 as a premium finance company from the Commissioner of Banking and
34 Insurance, except that any State or national bank authorized to do
35 business in this State shall be authorized to transact business as a
36 premium finance company, subject to all of the provisions of this act,
37 except that it shall not be required to obtain a license or pay a license
38 fee hereunder. Any person who shall engage in the business of
39 financing insurance premiums in this State without a valid license as
40 provided hereunder shall, upon conviction as provided in R.S. 17:33-2,
41 be subject to a fine of not more than \$300.00. [The] With respect to
42 a license fee imposed prior to the implementation of the assessment
43 pursuant to P.L. , c. (C.)(now before the Legislature as this
44 bill), the commissioner shall charge for a license such fee as he shall
45 prescribe by rule or regulation, not to exceed \$1,000.00. Upon
46 implementation of the assessment pursuant to P.L. , c. (C.)(now

1 before the Legislature as this bill), a license fee shall no longer be
2 imposed or collected by the commissioner pursuant to this section,
3 however an insurance premium finance agency shall pay to the
4 commissioner at the time of application an application fee not to
5 exceed \$1,000.00. The license shall run from the date of issuance to
6 the end of the biennial period. **[When]** With respect to a license fee
7 imposed prior to implementation of the assessment pursuant to
8 P.L. , c. (C.)(now before the Legislature as this bill), when
9 initial license is issued in the second year of the biennial licensing
10 period, the license fee shall be an amount equal to one-half of the fee
11 for the biennial licensing period.

12 Licenses may be renewed from year to year as of January 1 of each
13 year upon payment of the fee established by the commissioner with
14 respect to a license fee imposed prior to implementation of the
15 assessment pursuant to P.L. , c. (C.)(now before the Legislature
16 as this bill). The fee imposed prior to implementation of the
17 assessment pursuant to P.L. , c. (C.)(now before the Legislature
18 as this bill), for said license shall be paid to the commissioner for the
19 use of the State. No portion of the license fee imposed prior to
20 implementation of the assessment pursuant to P.L. , c. (C.)(now
21 before the Legislature as this bill), shall be refunded if the license is
22 surrendered by the licensee or suspended or revoked by the
23 commissioner.

24 Before any licensee changes his address he shall return his license
25 to the commissioner who shall indorse the license indicating the
26 change.

27 The person to whom the license or the renewal thereof may be
28 issued shall file sworn answers, subject to the penalties of perjury, to
29 such interrogatories as the commissioner may require. The
30 commissioner shall have authority, at any time, to require the applicant
31 fully to disclose the identity of all stockholders, partners, officers and
32 employees, and he may, in his discretion, refuse to issue or renew a
33 license in the name of any firm, partnership, or corporation if he is not
34 satisfied that any officer, employee, stockholder, or partner thereof
35 who may materially influence the applicant's conduct meets the
36 standards of this act.

37 (cf: P.L.1981, c.321, s.4)

38

39 24. Section 5 of P.L.1979, c.16 (C.17:16G-5) is amended to read
40 as follows:

41 5. a. Any social service agency or consumer credit counseling
42 agency licensed under this act shall be bonded to the satisfaction of the
43 commissioner and shall have its financial records relating to debt
44 adjustment audited annually by a certified public accountant or a
45 **[registered]** public accountant, which audit shall be filed with the
46 commissioner. Such an audit shall certify that the salaries and

1 expenses paid by the licensee are reasonable compared to those
2 incurred by comparable organizations providing similar services. After
3 reviewing the annual audit, the Commissioner of Banking and
4 Insurance may cause an examination of the social service agency or
5 consumer credit counseling agency to be made, the actual expenses of
6 such an examination shall be paid by the social service agency or
7 consumer credit counseling agency; and the commissioner may
8 maintain any action against any such agency to recover the fees and
9 expenses herein provided for.

10 b. The commissioner may require a licensee to file an annual report
11 containing that information required by the commissioner by regulation
12 concerning activities conducted as a licensee in the preceding calendar
13 year. The report shall be submitted under oath and in the form
14 specified by the commissioner by regulation.

15 c. The commissioner may require a high cost home loan counselor
16 to file an annual report containing that information required by the
17 commissioner by regulation concerning activities conducted pursuant
18 to subsection g. of section 5 of P.L.2003, c.64 (C.46:10B-26) as a
19 registrant in the preceding calendar year. The report shall be
20 submitted under oath and in the form specified by the commissioner by
21 regulation.

22 (cf: P.L.1979, c.16, s.5)

23
24 25. Sections 3 and 14 of this act shall take effect immediately, and
25 the remainder of this act shall take effect upon the adoption of
26 regulations pursuant to sections 3 and 14 of this act ¹[and the] , but
27 no assessment shall be payable earlier than July 1, 2006. The¹
28 commissioner may take those anticipatory actions necessary to
29 effectuate the provisions of this act.

30
31
32 _____
33
34 Establishes an assessment funding mechanism for the support of
35 Division of Banking and imposes certain additional fees and reports.

ASSEMBLY, No. 3176

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED SEPTEMBER 13, 2004

Sponsored by:

Assemblyman JOSEPH CRYAN

District 20 (Union)

Assemblyman JOSEPH R. MALONE, III

District 30 (Burlington, Mercer, Monmouth and Ocean)

SYNOPSIS

Establishes an assessment funding mechanism for the support of Division of Banking and imposes certain additional fees and reports.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing an assessment funding mechanism for the support
2 of the Division of Banking in the Department of Banking and
3 Insurance, imposing certain additional fees and amending and
4 supplementing various parts of the statutory law.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. (New section) a. The Legislature finds and declares that:

10 (1) The Division of Banking has a statutory obligation to protect
11 the interests of New Jersey's consumers and to regulate and oversee
12 the operations of the financial industry it charters, licenses and
13 registers.

14 (2) In order to maintain an adequate level of oversight and
15 supervision, and to perform its regulatory responsibilities, it is
16 necessary to establish an assessment funding mechanism for the
17 division's special needs.

18 (3) A banking assessment funding source is a clear indication of the
19 commitment that the State of New Jersey has made to the special
20 needs of the Division of Banking relative to its administrative activities
21 with regard to the financial regulation, supervision and monitoring of
22 the depository institutions and other financial entities it charters,
23 licenses and registers.

24 (4) A dedicated funding mechanism for the Division of Banking is
25 in the public interest.

26 b. The Legislature therefore intends for the actual incurred
27 expenses of the Division of Banking for all services related to the
28 division's financial regulation, supervision and monitoring of
29 depository institutions and other financial entities it charters, licenses
30 and registers to be assessed among these depository institutions,
31 licensees and registrants.

32

33 2. (New section) For the purposes of this act:

34 "Assessment" means the assessment imposed pursuant to section 3
35 of this act for the special functions of the division as provided in that
36 section.

37 "Commissioner" means the Commissioner of Banking and
38 Insurance.

39 "Department" means the Department of Banking and Insurance.

40 "Depository institution" means any entity holding a state charter for
41 a bank, savings bank, savings and loan association or credit union,
42 irrespective of whether the entity accepts deposits.

43 "Division" means the Division of Banking in the Department of

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

Matter underlined thus is new matter.

1 Banking and Insurance.

2 "Other financial entity" means a person who is licensed or
3 registered pursuant to: the "New Jersey Licensed Lenders Act,"
4 P.L.1996, c.157 (C.17:11C-1 et seq.); "The Check Cashers Regulatory
5 Act of 1993," P.L.1993, c.383 (C.17:15A-30 et seq.); the "New Jersey
6 Money Transmitters Act," P.L.1998, c.14 (C.17:15C-1 et seq.); the
7 "Insurance Premium Finance Company Act," P.L.1968, c.221
8 (C.17:16D-1 et seq.); the "Retail Installment Sales Act of 1960,"
9 P.L.1960, c.40 (C.17:16C-1 et seq.); the "Door-to-Door Retail
10 Installment Sales Act of 1968," P.L.1968, c.223 (C.17:16C-61.1 et
11 seq.); the "Home Repair Financing Act," P.L.1960, c.41 (C.17:16C-93
12 et seq.); the "Door-to-Door Home Repair Sales Act of 1968,"
13 P.L.1968, c.224 (C.17:16C-95 et seq.); P.L.1979, c.16 (C.17:16G-1
14 et seq.); or the "pawnbroking law," R.S.45:22-1 et seq.

15 "Regulated entity" means a depository institution, other financial
16 entity or person chartered, licensed or registered by the Division of
17 Banking or who should be chartered, licensed or registered.

18

19 3. (New section) a. The Director of the Division of Budget and
20 Accounting in the Department of the Treasury shall, on or before
21 August 15 in each year, ascertain and certify to the commissioner by
22 category the total amount of expenses incurred by the State in
23 connection with the administration of the special functions of the
24 Division of Banking in the Department of Banking and Insurance
25 relative to the financial regulation, supervision and monitoring of
26 depository institutions and other financial entities it licenses during the
27 preceding fiscal year. Those expenses shall include, in addition to the
28 direct cost of personal service, the cost of maintenance and operation,
29 the cost of employee benefits and the workers' compensation paid for
30 and on account of personnel, rentals for space occupied in
31 State-owned or State-leased buildings and all other direct and indirect
32 costs of the administration of those functions of the department, as
33 well as any amounts remaining uncollected from the assessment of the
34 previous fiscal year. Certification made pursuant to this subsection
35 shall be made by the Director of the Division of Budget and
36 Accounting.

37 b. (1) Upon receipt of the certification made by the Director of the
38 Division of Budget and Accounting pursuant to subsection a. of this
39 section, but no later than September 1 in each year following the close
40 of the previous fiscal year, the commissioner shall issue, in accordance
41 with the provisions of this section, the assessment for the amount of
42 the expenses incurred by, or on behalf of, the department for those
43 special purposes recognized in this act.

44 (2) Assessments made pursuant to this section shall be distributed
45 among all regulated entities in accordance with regulations
46 promulgated by the commissioner pursuant to the "Administrative

1 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

2 c. The commissioner shall certify the amount of the assessment
3 issued to each regulated entity. Each regulated entity shall remit the
4 amount so certified and assessed to it to the department in accordance
5 with the procedures established in this act. Amounts collected by the
6 department shall be used for reimbursement to the State for expenses
7 incurred in connection with the special functions of the division
8 relative to the financial regulation, supervision and monitoring of
9 depository institutions and other financial entities it charters, licenses
10 or registers, provided that the amount collected for those expenses
11 shall not exceed the amount appropriated by the Legislature for those
12 expenses.

13

14 4. (New section) Within 15 days after the date of mailing a
15 statement of the assessment as provided in this act, a regulated entity
16 may file its objections to its assessment with the commissioner. Upon
17 receiving those objections, the commissioner shall either: amend the
18 statement as warranted, consistent with sections 5 and 6 of this act; or
19 schedule and send a notice of a hearing on the objections, which
20 hearing shall be held not less than 30 nor more than 60 days after the
21 date of the notice.

22

23 5. (New section) If upon receiving the objections, or after the
24 hearing, the commissioner finds any part of the assessment against the
25 objecting regulated entity excessive, erroneous, unlawful or invalid, he
26 shall transmit to the objector, by registered mail, his findings and an
27 amended statement of the assessment in accordance with those
28 findings, which shall have the same force and effect as an original
29 statement of the assessment. If the commissioner finds the entire
30 statement of the assessment unlawful or invalid, he shall notify the
31 objector, by registered mail, of that determination, and the original
32 statement of the assessment shall be null and void. If the
33 commissioner finds that the statement as rendered is neither excessive,
34 erroneous, unlawful or invalid, in whole or in part, he shall transmit
35 notice thereof to the objector by registered mail.

36

37 6. (New section) If a statement of the assessment against which
38 objections are filed is not paid in full within 30 days after the date of
39 mailing to the objector of notice of a finding that the objections have
40 been disallowed; or if an amended statement of the assessment is not
41 paid within 30 days of the date a copy thereof is mailed by registered
42 mail to the objector, the commissioner shall give notice of the
43 delinquency to the State Treasurer and to the objector, and the State
44 Treasurer shall proceed to make the collection.

45

46 7. (New section) No action for recovery of an amount paid under

1 this act shall be maintained in any court unless objections have been
2 filed with the commissioner. In an action for recovery of any
3 payments, plaintiff may raise any relevant issue of law, but the
4 commissioner's findings of fact shall be presumptive evidence of the
5 facts therein stated.

6
7 8. (New section) No action or proceeding shall be maintained in
8 any court for the purpose of restraining or delaying the collection or
9 payment of a statement of the assessment rendered in accordance with
10 the provisions of this act. A regulated entity against which a statement
11 of the assessment is rendered shall pay the amount thereof, and after
12 the payment may, in the manner provided by this act at any time within
13 two years from the date of the payment, bring an action at law against
14 the State to recover the amount paid, with legal interest thereon from
15 the date of payment, upon the ground that the assessment was
16 excessive, erroneous, unlawful or invalid, in whole or in part.

17
18 9. (New section) The procedure provided in this act for
19 determining the lawfulness of statements of the assessment and the
20 recovery of payments made pursuant to those statements of the
21 assessment shall be exclusive of all other remedies and procedures.

22
23 10. (New section) If any regulated entity to which a statement of
24 the assessment as provided in this act has been mailed fails or refuses
25 to pay the amount within 30 days, or fails to file with the
26 commissioner objections to the statement of the assessment as
27 provided in this act, the commissioner shall transmit to the State
28 Treasurer a certified copy of both the statement of the assessment and
29 the notice of the neglect or refusal of the regulated entity to pay the
30 amount thereof, and at the same time shall mail by registered mail to
31 the entity a copy of the items transmitted to the State Treasurer.

32
33 11. (New section) Within 10 days after receipt of the notice and
34 certified copy of the statement of the assessment, the State Treasurer
35 shall proceed to collect the amount stated to be due, with legal
36 interest, by seizure and sale of any goods or chattels, including stocks,
37 securities, bank accounts, surety bonds, realty, evidences of debt and
38 accounts receivable belonging to the regulated entity anywhere within
39 the State. The State Treasurer shall not seize any goods or chattels
40 held by the regulated entity on behalf of another.

41
42 12. (New section) As an additional remedy, the State Treasurer
43 may issue a certificate to the Clerk of the Superior Court, that a
44 regulated entity is indebted under this act in an amount stated in the
45 certificate. The clerk shall immediately enter upon his record of
46 docketed judgments the name of the regulated entity, and of the State,

1 the amount of debt so certified, and the date of the entry. The entry
2 shall have the same force and effect as the entry of a docketed
3 judgment in the office of the clerk, and the State Treasurer shall have
4 all the remedies and may take all of the proceedings for the collection
5 thereof which may be had or taken upon the recovery of a judgment
6 in an action, but without prejudice to the regulated entity's right of
7 appeal.

8

9 13. (New section) a. Notwithstanding any law or regulation to the
10 contrary, a regulated entity paying the amounts assessed to it in
11 statements of the assessment made pursuant to section 3 of this act
12 shall be exempt from all fees or charges imposed by the division
13 pursuant to any other provision of law or regulation, except for:

14 (1) charter fees;

15 (2) application fees for licenses;

16 (3) mortgage solicitor registration application fees;

17 (4) fees for entry by a foreign depository institution whether from
18 another state of the United States or from another country into New
19 Jersey for branch, trust or other activities;

20 (5) fees charged under the "Governmental Unit Deposit Protection
21 Act," P.L.1970, c.236 (C.17:9-41 et seq.);

22 (6) fees charged any entity not chartered, licensed or registered by
23 this State, including but not limited to activities conducted by foreign
24 banks pursuant to section 316 of P.L.1948, c.47 (C.17:9A-316) or
25 foreign associations pursuant to section 214 of P.L.1963, c.144
26 (C.17:12B-214); and

27 (7) fees charged qualified corporations authorized pursuant to
28 section 213 of P.L.1948, c.67 (C.17:9A-213) to perform either
29 registrar and transfer agent activities or activities permitted for
30 qualified educational institutions.

31 b. Nothing in this section shall exempt a regulated entity from
32 paying any fine or penalty imposed by the commissioner for a violation
33 of a statute or regulation.

34 c. Except as provided in paragraph (1) of subsection d. of section
35 7 of the "New Jersey Home Ownership Security Act of 2002,"
36 P.L.2003, c.64 (C.46:10B-28), all fees, charges, fines and penalties as
37 described in subsections a. and b. of this subsection shall be remitted
38 to the State Treasurer for deposit into the General Fund, and those
39 fees, charges, fines and penalties shall not be part of the assessment
40 funding mechanism or considered in the calculation pursuant to section
41 15 of this act.

42

43 14. (New section) a. The State Treasurer and the commissioner
44 may adopt rules and regulations, pursuant to the "Administrative
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
46 the purposes of this act.

1 b. Any regulation promulgated by the commissioner shall describe
2 the factors to be considered in computing the assessment. In the case
3 of depository institutions, the assessment shall consider the following
4 factors as appropriate: assets, deposits or shares, trust funds under
5 management and the supervisory rating of the institution. In the case
6 of licensees or registrants, the assessment shall consider the following
7 factors as appropriate: loan volume, volume of money transmitted,
8 number of transactions, volume of checks cashed, number of licensee
9 branches, number of authorities held under the "New Jersey Licensed
10 Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.) and the
11 supervisory rating of the entity. In computing the assessment for
12 depository institutions, licensees or registrants, the commissioner may
13 consider those additional factors the commissioner deems appropriate.

14 c. The general purpose of the computations to determine the
15 assessment shall be to distribute the financial burden proportionally
16 among the depository institutions and other financial entities it
17 charters, licenses and registers consistent with the division's regulatory
18 activities.

19 d. The commissioner shall provide for the orderly and fair
20 transition to assessments on existing charters, licensees and registrants
21 by promulgating rules and regulations and by establishing
22 administrative procedures that are reasonable, necessary and consistent
23 with this act.

24

25 15. (New section) a. The total amount assessable to regulated
26 entities in any fiscal year for the assessment established by this act
27 shall not exceed the lesser of:

28 (1) the total amount of expenses incurred by the State in
29 connection with the administration of the special functions of the
30 division pursuant to section 3 of this act during the preceding fiscal
31 year as ascertained by the Director of the Division of Budget and
32 Accounting in the Department of the Treasury, on or before August 15
33 in each year, and certified to the commissioner by category;

34 (2) .00015 times the sum of (a) the total assets for State-chartered
35 banks, savings banks, and savings and loan associations for the
36 preceding calendar year plus (b) the total loan volume for residential
37 mortgage loans closed by licensed lenders pursuant to the "New Jersey
38 Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.); or

39 (3) mortgage solicitor registration application fees.

40 b. In calculating the assessments:

41 (1) Banks, savings banks and savings and loan associations shall be
42 given prorated credit for unused portions of assessment periods; and

43 (2) Licensees shall be given prorated credit for unused portions of
44 licensing periods.

45 c. The department shall not issue an examination bill for an
46 examination that has not been completed by the date that the regulated

1 entity becomes subject to the assessment pursuant to the provisions of
2 this act. For the purposes of this act, the completion of the
3 examination shall not include the time to process and review the
4 examination report.

5
6 16. (New section) a. A depository institution that submits figures
7 on assets, deposits or any other factor used by the department to
8 compute the depository institution's assessment that are substantially
9 or materially in error shall be liable for an administrative penalty not
10 to exceed \$10,000 for each submission that contains incorrect
11 information.

12 b. A licensee that submits figures on loan volume, number of
13 branches, or any other factor used by the department to compute the
14 licensee's assessment that are substantially or materially in error shall
15 be liable for an administrative penalty not to exceed \$10,000 for each
16 submission that contains incorrect information.

17 c. In addition to any monetary penalty that may be imposed against
18 a licensee pursuant to subsection b. of this section, the commissioner
19 may take action to revoke, suspend or refuse to renew the license of
20 a licensee that submits substantially or materially erroneous figures in
21 violation of the provisions of this act. The suspension, revocation or
22 refusal to renew a license shall be in addition to any monetary penalty
23 imposed pursuant to subsection b. of this section.

24 d. The administrative penalty authorized pursuant to this section
25 may be recovered in a summary proceeding in accordance with the
26 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et
27 seq.). A willful violation of this section shall be considered a crime of
28 the third degree.

29
30 17. Section 8 of P.L.1996, c.157 (C.17:11C-8) is amended to read
31 as follows:

32 8. a. Every application for an initial license shall be accompanied
33 by an application fee [of not more than \$500, as established by the
34 commissioner by regulation] as set forth in subsection d. of this
35 section. When the applicant at the same time seeks a license to engage
36 in more than one activity, only one application fee may be charged.
37 [The] With respect to a license fee imposed prior to the
38 implementation of the assessment pursuant to P.L. c. (C.) (now
39 before the Legislature as this bill), the license fee, as prescribed by the
40 commissioner by regulation, shall be based on the number of the
41 following activities in which the person is licensed to engage under this
42 act or the "Retail Installment Sales Act of 1960," P.L.1960, c.40
43 (C.17:16C-1 et seq.): a mortgage banker or mortgage broker; a
44 secondary lender; a consumer lender; or a sales finance company. The
45 fee for a biennial license or a renewal thereof shall be set according to
46 the following schedule:

1 (1) If the person is licensed to engage in one activity, the fee shall
2 not be more than \$3,000;

3 (2) If the person is licensed to engage in two activities, the fee shall
4 not be more than \$4,000;

5 (3) If the person is licensed to engage in three activities, the fee
6 shall not be more than \$5,000; and

7 (4) If the person is licensed to engage in all four activities, the fee
8 shall not be more than \$6,000.

9 Upon implementation of the assessment pursuant to P.L. , c.
10 (C.)(now before the Legislature as this bill), a license fee shall no
11 longer be imposed or collected by the commissioner pursuant to this
12 section.

13 b. When the initial license is issued in the second year of the
14 biennial licensing period, the license fee shall equal one-half of the
15 license fee for the biennial period set forth above. In lieu of, or in
16 addition to, the fees set forth above, the department may impose other
17 fees and charges as provided by regulation.

18 c. An applicant for a mortgage solicitor registration pursuant to
19 subsection c. of section 3 of P.L.1996, c.157 (C.17:11C-3) shall be
20 subject to a mortgage solicitor registration application fee, not to
21 exceed \$100 as established by the commissioner by regulation. A
22 solicitor who changes his registration to a different licensee shall be
23 required to submit a new registration application and to pay an
24 application fee.

25 d. An applicant shall pay to the commissioner at the time of the
26 initial application for a license an application fee not to exceed the
27 amounts specified in this subsection:

28 (1) For an application for one activity, an application fee not to
29 exceed \$700;

30 (2) For an application for two activities, an application fee not to
31 exceed \$1,000;

32 (3) For an application for three activities, an application fee not to
33 exceed \$1,300; and

34 (4) For an application for four activities, an application fee not to
35 exceed \$1,600.

36 e. A licensee that seeks to add an additional activity to an existing
37 license shall pay a fee not to exceed \$300 per activity.

38 f. Fee amounts shall be prescribed by the commissioner by
39 regulation.

40 (cf: P.L.1996, c.157, s.8)

41
42 18. Section 8 of P.L.1960, c.40 (C.17:16C-8) is amended to read
43 as follows:

44 8. [Every] With respect to a license fee imposed prior to the
45 implementation of the assessment pursuant to P.L. , c. (C.)(now
46 before the Legislature as this bill), every motor vehicle installment

1 seller shall pay to the commissioner at the time of making the
2 application and biennially thereafter upon renewal a license fee for its
3 principal office and for each additional place of business conducted in
4 this State. The commissioner shall charge for a license such fee as he
5 shall prescribe by rule or regulation. Each fee shall not exceed
6 \$300.00. The license shall run from the date of issuance to the end of
7 the biennial period. When the initial license is issued in the second
8 year of the biennial licensing period, the fee shall be an amount equal
9 to one-half of the license fee for the biennial licensing period. Upon
10 implementation of the assessment pursuant to P.L. , c. (C.)(now
11 before the Legislature as this bill), a license fee shall no longer be
12 imposed or collected by the commissioner pursuant to this section,
13 however a motor vehicle installment seller shall pay to the
14 commissioner at the time of application an application fee not to
15 exceed \$300.00.

16 (cf: P.L.1981, c.321, s.2)

17

18 19. Section 18 of P.L.1960, c.40 (C.17:16C-18) is amended to
19 read as follows:

20 18. Every retail seller, sales finance company, motor vehicle
21 installment seller and holder shall maintain at its place or places of
22 business in this State such books, accounts and records relating to all
23 transactions within this act as will enable the commissioner to enforce
24 full compliance with the provisions of this act.

25 (cf: P.L.1960, c.40, s.18)

26

27 20. Section 19 of P.L.1960, c.40 (C.17:16C-19) is amended to
28 read as follows:

29 19. All books, accounts and records of the licensee shall be
30 preserved and kept available as provided herein for such period of time
31 as the commissioner may by regulation require. The commissioner
32 may require a licensee to file an annual report containing that
33 information required by the commissioner by regulation concerning
34 business conducted as a licensee in the preceding calendar year. The
35 report shall be submitted under oath and in the form specified by the
36 commissioner by regulation.

37 (cf: P.L.1960, c.40, s.19)

38

39 21. Section 21 of P.L.1960, c.41(C.17:16C-82) is amended to read
40 as follows:

41 21. (a) **[Every]** With respect to a license fee imposed prior to the
42 implementation of the assessment pursuant to P.L. , c. (C.)(now
43 before the Legislature as this bill, every home financing agency shall
44 pay to the commissioner at the time of making the application and
45 biennially thereafter upon renewal a license fee for its principal place
46 of business and for each additional place of business conducted in this

1 State. The commissioner shall charge for a license such fee as he shall
2 prescribe by rule or regulation. Each fee shall not exceed \$600.00.
3 The license shall run from the date of issuance to the end of the
4 biennial period. When the initial license is issued in the second year of
5 the biennial licensing period, the license fee shall be an amount equal
6 to one-half of the fee for the biennial licensing period. Upon
7 implementation of the assessment pursuant to P.L. , c. (C.)(now
8 before the Legislature as this bill), a license fee shall no longer be
9 imposed or collected by the commissioner pursuant to this section,
10 however a home financing agency shall pay to the commissioner at the
11 time of application an application fee not to exceed \$600.00.

12 (b) **[Every]** With respect to a license fee imposed prior to the
13 implementation of the assessment pursuant to P.L. , c. (C.)(now
14 before the Legislature as this bill, every home repair contractor shall
15 pay to the commissioner at the time of making the application and
16 biennially thereafter upon renewal a license fee for its principal place
17 of business and for each additional place of business conducted in this
18 State. The commissioner shall charge for a license such fee as he shall
19 prescribe by rule or regulation. Each fee shall not exceed \$300.00.
20 The license shall run from the date of issuance to the end of the
21 biennial period. When the initial license is issued in the second year of
22 the biennial licensing period, the license fee shall be an amount equal
23 to one-half of the fee for the biennial licensing period. Upon
24 implementation of the assessment pursuant to P.L. , c. (C.)(now
25 before the Legislature as this bill), a license fee shall no longer be
26 imposed or collected by the commissioner pursuant to this section,
27 however a home repair contractor shall pay to the commissioner at the
28 time of application an application fee not to exceed \$300.00.

29 (c) **[Every]** With respect to a license fee imposed prior to the
30 implementation of the assessment pursuant to P.L. , c. (C.)(now
31 before the Legislature as this bill, every home repair salesman shall pay
32 to the [commission] commissioner at the time of making the
33 application and biennially thereafter upon renewal a license fee. The
34 commissioner shall charge for a license such fee as he shall prescribe
35 by rule or regulation, not to exceed \$60.00. The license shall run from
36 the date of issuance to the end of the biennial period. When the initial
37 license is issued in the second year of the biennial licensing period, the
38 license fee shall be an amount equal to one-half of the fee for the
39 biennial licensing period. Upon implementation of the assessment
40 pursuant to P.L. , c. (C.)(now before the Legislature as this
41 bill), a license fee shall no longer be imposed or collected by the
42 commissioner pursuant to this section, however a home repair
43 salesman shall pay to the commissioner at the time of application an
44 application fee not to exceed \$60.00.

45 (cf: P.L.1981, c.321, s.3)

1 22. Section 26 of P.L.1960, c. 41 (C.17:16C-87) is amended to
2 read as follows:

3 26. a. Every home repair contractor, home financing agency and
4 holder of a home repair contract shall maintain at its place or places of
5 business such books, accounts and records relating to all transactions
6 under this act as will enable the commissioner to enforce full
7 compliance with the provisions hereof. All such books, accounts and
8 records shall be preserved and kept available for such period of time
9 as the commissioner may by regulation require. The commissioner
10 may prescribe the minimum information to be shown in such books,
11 accounts and records of the licensee so that such records will enable
12 the commissioner to determine compliance with the provisions of this
13 act.

14 b. The commissioner may require a licensee to file an annual report
15 containing that information required by the commissioner by regulation
16 concerning business conducted as a licensee in the preceding calendar
17 year. The report shall be submitted under oath and in the form
18 specified by the commissioner by regulation.

19 (cf: P.L.1960, c.41, s.26)

20

21 23. Section 4 of P.L.1968, c.221 (C.17:16D-4) is amended to read
22 as follows:

23 4. Licenses. No person shall engage in the business of financing
24 insurance premiums in this State without first having obtained a license
25 as a premium finance company from the Commissioner of Banking and
26 Insurance, except that any State or national bank authorized to do
27 business in this State shall be authorized to transact business as a
28 premium finance company, subject to all of the provisions of this act,
29 except that it shall not be required to obtain a license or pay a license
30 fee hereunder. Any person who shall engage in the business of
31 financing insurance premiums in this State without a valid license as
32 provided hereunder shall, upon conviction as provided in R.S. 17:33-2,
33 be subject to a fine of not more than \$300.00. [The] With respect to
34 a license fee imposed prior to the implementation of the assessment
35 pursuant to P.L. , c. (C.)(now before the Legislature as this
36 bill), the commissioner shall charge for a license such fee as he shall
37 prescribe by rule or regulation, not to exceed \$1,000.00. Upon
38 implementation of the assessment pursuant to P.L. , c. (C.)(now
39 before the Legislature as this bill), a license fee shall no longer be
40 imposed or collected by the commissioner pursuant to this section,
41 however an insurance premium finance agency shall pay to the
42 commissioner at the time of application an application fee not to
43 exceed \$1,000.00. The license shall run from the date of issuance to
44 the end of the biennial period. [When] With respect to a license fee
45 imposed prior to implementation of the assessment pursuant to P.L.
46 , c. (C.)(now before the Legislature as this bill), when the initial

1 license is issued in the second year of the biennial licensing period, the
2 license fee shall be an amount equal to one-half of the fee for the
3 biennial licensing period.

4 Licenses may be renewed from year to year as of January 1 of each
5 year upon payment of the fee established by the commissioner with
6 respect to a license fee imposed prior to implementation of the
7 assessment pursuant to P.L. , c. (C.)(now before the Legislature
8 as this bill). The fee imposed prior to implementation of the
9 assessment pursuant to P.L. , c. (C.)(now before the Legislature
10 as this bill), for said license shall be paid to the commissioner for the
11 use of the State. No portion of the license fee imposed prior to
12 implementation of the assessment pursuant to P.L. , c. (C.)(now
13 before the Legislature as this bill), shall be refunded if the license is
14 surrendered by the licensee or suspended or revoked by the
15 commissioner.

16 Before any licensee changes his address he shall return his license
17 to the commissioner who shall indorse the license indicating the
18 change.

19 The person to whom the license or the renewal thereof may be
20 issued shall file sworn answers, subject to the penalties of perjury, to
21 such interrogatories as the commissioner may require. The
22 commissioner shall have authority, at any time, to require the applicant
23 fully to disclose the identity of all stockholders, partners, officers and
24 employees, and he may, in his discretion, refuse to issue or renew a
25 license in the name of any firm, partnership, or corporation if he is not
26 satisfied that any officer, employee, stockholder, or partner thereof
27 who may materially influence the applicant's conduct meets the
28 standards of this act.

29 (cf: P.L.1981, c.321, s.4)

30

31 24. Section 5 of P.L.1979, c.16 (C.17:16G-5) is amended to read
32 as follows:

33 5. a. Any social service agency or consumer credit counseling
34 agency licensed under this act shall be bonded to the satisfaction of the
35 commissioner and shall have its financial records relating to debt
36 adjustment audited annually by a certified public accountant or a
37 **[registered]** public accountant, which audit shall be filed with the
38 commissioner. Such an audit shall certify that the salaries and
39 expenses paid by the licensee are reasonable compared to those
40 incurred by comparable organizations providing similar services. After
41 reviewing the annual audit, the Commissioner of Banking and
42 Insurance may cause an examination of the social service agency or
43 consumer credit counseling agency to be made, the actual expenses of
44 such an examination shall be paid by the social service agency or
45 consumer credit counseling agency; and the commissioner may
46 maintain any action against any such agency to recover the fees and

1 expenses herein provided for.

2 b. The commissioner may require a licensee to file an annual report
3 containing that information required by the commissioner by regulation
4 concerning activities conducted as a licensee in the preceding calendar
5 year. The report shall be submitted under oath and in the form
6 specified by the commissioner by regulation.

7 c. The commissioner may require a high cost home loan counselor
8 to file an annual report containing that information required by the
9 commissioner by regulation concerning activities conducted pursuant
10 to subsection g. of section 5 of P.L.2003, c.64 (C.46:10B-26) as a
11 registrant in the preceding calendar year. The report shall be
12 submitted under oath and in the form specified by the commissioner by
13 regulation.

14 (cf: P.L.1979, c.16, s.5)

15

16 25. Sections 3 and 14 of this act shall take effect immediately, and
17 the remainder of this act shall take effect upon the adoption of
18 regulations pursuant to sections 3 and 14 of this act and the
19 commissioner may take those anticipatory actions necessary to
20 effectuate the provisions of this act.

21

22

23

STATEMENT

24

25 This bill establishes a dedicated assessment funding mechanism for
26 the special needs of the Division of Banking in the Department of
27 Banking and Insurance associated with the financial regulation,
28 supervision and monitoring of the depository institutions and other
29 financial entities that it charters and licenses and individuals that it
30 licenses and registers. The Division of Banking has a statutory
31 obligation to protect the interests of New Jersey's consumers and to
32 regulate and oversee the operations of these financial entities.

33 Under the provisions of this bill, the actual incurred expenses of the
34 Division of Banking for all services related to the division's financial
35 regulation, supervision and monitoring of the depository institutions
36 and other financial entities it charters, licenses and registers will be
37 assessed among those entities.

38 The bill authorizes the State Treasurer to collect unpaid
39 assessments and provides a process whereby the regulated entity may
40 file objections to the assessment. After paying the assessment, a
41 regulated entity may dispute the assessment amount in a court action
42 against the State. The bill caps the total amount that a regulated entity
43 may be assessed in any fiscal year. Depository institutions and
44 regulated entities that submit assessment data that is substantially in
45 error are liable for administrative penalties under the provisions of the
46 bill.

1 The bill also establishes license application fees for certain regulated
2 entities that currently do not pay such a fee and provides for the
3 eventual elimination of annual license renewal fees for those entities.
4 Under the bill application fees are established for the following
5 regulated entities: motor vehicle installment sellers; home financing
6 agencies; home repair contractors; home repair salesmen; and
7 insurance premium finance companies.

8 In addition, the bill permits the Commissioner of Banking and
9 Insurance to require the submission of annual reports from certain
10 regulated entities that previously had not been under such a
11 requirement. The bill provides that the commissioner may require a
12 licensee to file an annual report containing that information required
13 by the commissioner by regulation concerning business conducted as
14 a licensee in the preceding calendar year. The report shall be
15 submitted under oath and in the form specified by the commissioner by
16 regulation. As provided in the bill, those regulated entities which may
17 be required to file an annual report include: motor vehicle installment
18 sellers; home financing agencies; home repair contractors; home repair
19 salesmen; and social service agencies, consumer credit counseling
20 agencies and high cost home loan counselors that provide debt
21 counseling services to consumers.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3176

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 2005

The Assembly Budget Committee reports favorably Assembly Bill No. 3176, with committee amendments.

Assembly Bill No. 3176, as amended, establishes a dedicated assessment funding mechanism for the special needs of the Division of Banking in the Department of Banking and Insurance associated with the financial regulation, supervision and monitoring of the depository institutions and other financial entities that it charters and licenses and individuals that it licenses and registers. The Division of Banking has a statutory obligation to protect the interests of New Jersey's consumers and to regulate and oversee the operations of these financial entities.

Under the provisions of this bill, the actual incurred expenses of the Division of Banking for all services related to the division's financial regulation, supervision and monitoring of the depository institutions and other financial entities it charters, licenses and registers will be assessed among those entities.

The bill authorizes the State Treasurer to collect unpaid assessments and provides a process whereby the regulated entity may file objections to the assessment. After paying the assessment, a regulated entity may dispute the assessment amount in a court action against the State. The bill caps the total amount that a regulated entity may be assessed in any fiscal year. Depository institutions and regulated entities that submit assessment data that is substantially in error are liable for administrative penalties under the provisions of the bill.

The bill also establishes license application fees for certain regulated entities that currently do not pay such a fee and provides for the eventual elimination of annual license renewal fees for those entities. Under the bill, application fees are established for the following regulated entities: motor vehicle installment sellers; home financing agencies; home repair contractors; home repair salesmen; and insurance premium finance companies.

In addition, the bill permits the Commissioner of Banking and Insurance to require the submission of annual reports from certain regulated entities that previously had not been under such a

requirement. The bill provides that the commissioner may require a licensee to file an annual report containing that information required by the commissioner by regulation concerning business conducted as a licensee in the preceding calendar year. The report shall be submitted under oath and in the form specified by the commissioner by regulation. As provided in the bill, those regulated entities which may be required to file an annual report include: motor vehicle installment sellers; home financing agencies; home repair contractors; home repair salesmen; and social service agencies, consumer credit counseling agencies and high cost home loan counselors that provide debt counseling services to consumers.

FISCAL IMPACT:

The bill provides a dedicated funding mechanism for the Division of Banking which mirrors the existing funding mechanisms for the Division of Insurance, Real Estate Commission and Bureau of Securities within the Department of Banking and Insurance. The Division of Banking budget would be based on an assessment of the industry, while other existing revenue streams, such as fines and penalties, new charter fees and certain license application fees, would continue to flow to the General Fund. According to the bill, the assessment will be implemented in FY 2007.

The Office of Legislative Services estimates that the bill will result in additional General Fund revenue of \$664,000 for FY 2007 and approximately \$1 million for FY 2008 and FY 2009. The Department of Banking and Insurance indicates that it plans to hire 34 employees over FY 2007 (10 new hires), FY 2008 (12 new hires) and FY 2009 (12 new hires). The department anticipates that salaries and other costs associated with the new hires from FY 2007 forward will be funded from the new assessment as set forth in the bill. The new staff additions are expected to increase fine and penalty revenue annually accounting for close to \$1 million in additional revenue for the General Fund.

COMMITTEE AMENDMENTS:

The amendments require the commissioner to consider the impact of the assessment on licensed check cashers, in recognition of the statutory and regulatory limits on the fees that may be charged.

The amendment to the effective date of the bill clarifies that no assessment will be payable earlier than July 1, 2006.

The amendments make a technical change to remove an inadvertent reference to certain application fees in the provision limiting the total amount assessable in any fiscal year.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3176

STATE OF NEW JERSEY

211th LEGISLATURE

DATED: JULY 15, 2005

SUMMARY

Synopsis: Establishes an assessment funding mechanism for the support of Division of Banking and imposes certain additional fees and reports.

Type of Impact: Revenue gain

Agencies Affected: Department of Banking and Insurance

Office of Legislative Services Estimate

Fiscal Impact	FY 2007	FY 2008	FY 2009
State Revenue	\$664,000	\$1 million	\$1 million

- ! The Office of Legislative Services estimates that the bill will result in additional General Fund revenue of \$664,000 for FY 2007 and approximately \$1 million for FY 2008 and FY 2009. The Department of Banking and Insurance indicates that it plans to hire 34 employees over FY 2007 (12 new hires), FY 2008 (12 new hires) and FY 2009 (10 new hires). The department anticipates that salaries and other costs associated with the new hires from FY 2007 forward will be funded from the new assessment as set forth in the bill. The new staff additions are expected to increase fine and penalty revenue annually accounting for close to \$1 million in additional revenue for the General Fund.
- ! The bill provides a dedicated funding mechanism for the Division of Banking which mirrors the existing funding mechanisms for the Division of Insurance and the Real Estate Commission within the Department of Banking and Insurance.
- ! The Division of Banking budget would be based on an assessment of the industry, while other existing revenue streams, such as fines and penalties, new charter fees and certain license application fees, would continue to flow to the General Fund. According to the bill, the assessment will be implemented in FY 2007.

BILL DESCRIPTION

Assembly Bill No. 3176 (1R) of 2005 establishes a dedicated assessment funding mechanism for the Division of Banking in the Department of Banking and Insurance for its costs associated

with the regulation, supervision and monitoring of the depository institutions, other financial entities and individuals that it charters, licenses and registers. Under the bill, the actual incurred expenses of the Division of Banking for all services related to the division's financial regulation, supervision and monitoring activities will be assessed among these entities. The bill authorizes the State Treasurer to collect unpaid assessments and provides a process whereby the regulated entity may file objections to the assessment.

The bill also establishes license application fees for certain regulated entities that currently do not pay such a fee and provides for the eventual elimination of annual license renewal fees for those entities. Under the bill application fees are established for the following regulated entities: motor vehicle installment sellers; home financing agencies; home repair contractors; home repair salesmen; and insurance premium finance companies. The bill requires the commissioner to consider the impact of the assessment on licensed check cashers.

In addition, the bill permits the Commissioner of Banking and Insurance to require the submission of annual reports from certain regulated entities that previously had not been under such a requirement. The bill provides that the commissioner may require a licensee to file an annual report containing that information required by the commissioner by regulation concerning business conducted as a licensee in the preceding calendar year. The report shall be submitted under oath and in the form specified by the commissioner by regulation. As provided in the bill, those regulated entities which may be required to file an annual report include: motor vehicle installment sellers; home financing agencies; home repair contractors; home repair salesmen; and social service agencies, consumer credit counseling agencies and high cost home loan counselors that provide debt counseling services to consumers.

According to the bill, no assessment will be payable prior to July 1, 2006.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services estimates that the bill will result in additional General Fund revenue of \$664,000 for FY 2007 and approximately \$1 million for FY 2008 and FY 2009. The Department of Banking and Insurance indicates that it plans to hire 34 employees over FY 2007 (12 new hires), FY 2008 (12 new hires) and FY 2009 (10 new hires). The department anticipates that salaries and other costs associated with the new hires from FY 2007 forward will be funded from the new assessment as set forth in the bill. The new staff additions are expected to increase fine and penalty revenue annually accounting for close to \$1 million in additional revenue for the General Fund.

The bill provides a dedicated funding mechanism for the Division of Banking which mirrors the existing funding mechanisms for the Division of Insurance and the Real Estate Commission within the Department of Banking and Insurance. The Division of Banking budget would be based on an assessment of the industry, while other existing revenue streams, such as fines and penalties, new charter fees and certain license application fees, would continue to flow to the General Fund. According to the bill, the assessment will be implemented in FY 2007.

Section: *Commerce, Labor and Industry*

Analyst: *Sonya S. Davis*
Associate Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

SENATE, No. 1760

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED SEPTEMBER 27, 2004

Sponsored by:

Senator BARBARA BUONO

District 18 (Middlesex)

Senator LEONARD LANCE

District 23 (Warren and Hunterdon)

SYNOPSIS

Establishes an assessment funding mechanism for the support of Division of Banking and imposes certain additional fees and reports.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing an assessment funding mechanism for the support
2 of the Division of Banking in the Department of Banking and
3 Insurance, imposing certain additional fees and amending and
4 supplementing various parts of the statutory law.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. (New section) a. The Legislature finds and declares that:

10 (1) The Division of Banking has a statutory obligation to protect
11 the interests of New Jersey's consumers and to regulate and oversee
12 the operations of the financial industry it charters, licenses and
13 registers.

14 (2) In order to maintain an adequate level of oversight and
15 supervision, and to perform its regulatory responsibilities, it is
16 necessary to establish an assessment funding mechanism for the
17 division's special needs.

18 (3) A banking assessment funding source is a clear indication of the
19 commitment that the State of New Jersey has made to the special
20 needs of the Division of Banking relative to its administrative activities
21 with regard to the financial regulation, supervision and monitoring of
22 the depository institutions and other financial entities it charters,
23 licenses and registers.

24 (4) A dedicated funding mechanism for the Division of Banking is
25 in the public interest.

26 b. The Legislature therefore intends for the actual incurred
27 expenses of the Division of Banking for all services related to the
28 division's financial regulation, supervision and monitoring of
29 depository institutions and other financial entities it charters, licenses
30 and registers to be assessed among these depository institutions,
31 licensees and registrants.

32

33 2. (New section) For the purposes of this act:

34 "Assessment" means the assessment imposed pursuant to section 3
35 of this act for the special functions of the division as provided in that
36 section.

37 "Commissioner" means the Commissioner of Banking and
38 Insurance.

39 "Department" means the Department of Banking and Insurance.

40 "Depository institution" means any entity holding a state charter for
41 a bank, savings bank, savings and loan association or credit union,
42 irrespective of whether the entity accepts deposits.

43 "Division" means the Division of Banking in the Department of

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 Banking and Insurance.

2 "Other financial entity" means a person who is licensed or
3 registered pursuant to: the "New Jersey Licensed Lenders Act,"
4 P.L.1996, c.157 (C.17:11C-1 et seq.); "The Check Cashers Regulatory
5 Act of 1993," P.L.1993, c.383 (C.17:15A-30 et seq.); the "New Jersey
6 Money Transmitters Act," P.L.1998, c.14 (C.17:15C-1 et seq.); the
7 "Insurance Premium Finance Company Act," P.L.1968, c.221
8 (C.17:16D-1 et seq.); the "Retail Installment Sales Act of 1960,"
9 P.L.1960, c.40 (C.17:16C-1 et seq.); the "Door-to-Door Retail
10 Installment Sales Act of 1968," P.L.1968, c.223 (C.17:16C-61.1 et
11 seq.); the "Home Repair Financing Act," P.L.1960, c.41 (C.17:16C-93
12 et seq.); the "Door-to-Door Home Repair Sales Act of 1968,"
13 P.L.1968, c.224 (C.17:16C-95 et seq.); P.L.1979, c.16 (C.17:16G-1
14 et seq.); or the "pawnbroking law," R.S.45:22-1 et seq.

15 "Regulated entity" means a depository institution, other financial
16 entity or person chartered, licensed or registered by the Division of
17 Banking or who should be chartered, licensed or registered.

18

19 3. (New section) a. The Director of the Division of Budget and
20 Accounting in the Department of the Treasury shall, on or before
21 August 15 in each year, ascertain and certify to the commissioner by
22 category the total amount of expenses incurred by the State in
23 connection with the administration of the special functions of the
24 Division of Banking in the Department of Banking and Insurance
25 relative to the financial regulation, supervision and monitoring of
26 depository institutions and other financial entities it licenses during the
27 preceding fiscal year. Those expenses shall include, in addition to the
28 direct cost of personal service, the cost of maintenance and operation,
29 the cost of employee benefits and the workers' compensation paid for
30 and on account of personnel, rentals for space occupied in
31 State-owned or State-leased buildings and all other direct and indirect
32 costs of the administration of those functions of the department, as
33 well as any amounts remaining uncollected from the assessment of the
34 previous fiscal year. Certification made pursuant to this subsection
35 shall be made by the Director of the Division of Budget and
36 Accounting.

37 b. (1) Upon receipt of the certification made by the Director of the
38 Division of Budget and Accounting pursuant to subsection a. of this
39 section, but no later than September 1 in each year following the close
40 of the previous fiscal year, the commissioner shall issue, in accordance
41 with the provisions of this section, the assessment for the amount of
42 the expenses incurred by, or on behalf of, the department for those
43 special purposes recognized in this act.

44 (2) Assessments made pursuant to this section shall be distributed
45 among all regulated entities in accordance with regulations
46 promulgated by the commissioner pursuant to the "Administrative

1 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

2 c. The commissioner shall certify the amount of the assessment
3 issued to each regulated entity. Each regulated entity shall remit the
4 amount so certified and assessed to it to the department in accordance
5 with the procedures established in this act. Amounts collected by the
6 department shall be used for reimbursement to the State for expenses
7 incurred in connection with the special functions of the division
8 relative to the financial regulation, supervision and monitoring of
9 depository institutions and other financial entities it charters, licenses
10 or registers, provided that the amount collected for those expenses
11 shall not exceed the amount appropriated by the Legislature for those
12 expenses.

13

14 4. (New section) Within 15 days after the date of mailing a
15 statement of the assessment as provided in this act, a regulated entity
16 may file its objections to its assessment with the commissioner. Upon
17 receiving those objections, the commissioner shall either: amend the
18 statement as warranted, consistent with sections 5 and 6 of this act; or
19 schedule and send a notice of a hearing on the objections, which
20 hearing shall be held not less than 30 nor more than 60 days after the
21 date of the notice.

22

23 5. (New section) If upon receiving the objections, or after the
24 hearing, the commissioner finds any part of the assessment against the
25 objecting regulated entity excessive, erroneous, unlawful or invalid, he
26 shall transmit to the objector, by registered mail, his findings and an
27 amended statement of the assessment in accordance with those
28 findings, which shall have the same force and effect as an original
29 statement of the assessment. If the commissioner finds the entire
30 statement of the assessment unlawful or invalid, he shall notify the
31 objector, by registered mail, of that determination, and the original
32 statement of the assessment shall be null and void. If the
33 commissioner finds that the statement as rendered is neither excessive,
34 erroneous, unlawful or invalid, in whole or in part, he shall transmit
35 notice thereof to the objector by registered mail.

36

37 6. (New section) If a statement of the assessment against which
38 objections are filed is not paid in full within 30 days after the date of
39 mailing to the objector of notice of a finding that the objections have
40 been disallowed; or if an amended statement of the assessment is not
41 paid within 30 days of the date a copy thereof is mailed by registered
42 mail to the objector, the commissioner shall give notice of the
43 delinquency to the State Treasurer and to the objector, and the State
44 Treasurer shall proceed to make the collection.

45

46 7. (New section) No action for recovery of an amount paid under

1 this act shall be maintained in any court unless objections have been
2 filed with the commissioner. In an action for recovery of any
3 payments, plaintiff may raise any relevant issue of law, but the
4 commissioner's findings of fact shall be presumptive evidence of the
5 facts therein stated.

6
7 8. (New section) No action or proceeding shall be maintained in
8 any court for the purpose of restraining or delaying the collection or
9 payment of a statement of the assessment rendered in accordance with
10 the provisions of this act. A regulated entity against which a statement
11 of the assessment is rendered shall pay the amount thereof, and after
12 the payment may, in the manner provided by this act at any time within
13 two years from the date of the payment, bring an action at law against
14 the State to recover the amount paid, with legal interest thereon from
15 the date of payment, upon the ground that the assessment was
16 excessive, erroneous, unlawful or invalid, in whole or in part.

17
18 9. (New section) The procedure provided in this act for
19 determining the lawfulness of statements of the assessment and the
20 recovery of payments made pursuant to those statements of the
21 assessment shall be exclusive of all other remedies and procedures.

22
23 10. (New section) If any regulated entity to which a statement of
24 the assessment as provided in this act has been mailed fails or refuses
25 to pay the amount within 30 days, or fails to file with the
26 commissioner objections to the statement of the assessment as
27 provided in this act, the commissioner shall transmit to the State
28 Treasurer a certified copy of both the statement of the assessment and
29 the notice of the neglect or refusal of the regulated entity to pay the
30 amount thereof, and at the same time shall mail by registered mail to
31 the entity a copy of the items transmitted to the State Treasurer.

32
33 11. (New section) Within 10 days after receipt of the notice and
34 certified copy of the statement of the assessment, the State Treasurer
35 shall proceed to collect the amount stated to be due, with legal
36 interest, by seizure and sale of any goods or chattels, including stocks,
37 securities, bank accounts, surety bonds, realty, evidences of debt and
38 accounts receivable belonging to the regulated entity anywhere within
39 the State. The State Treasurer shall not seize any goods or chattels
40 held by the regulated entity on behalf of another.

41
42 12. (New section) As an additional remedy, the State Treasurer
43 may issue a certificate to the Clerk of the Superior Court, that a
44 regulated entity is indebted under this act in an amount stated in the
45 certificate. The clerk shall immediately enter upon his record of
46 docketed judgments the name of the regulated entity, and of the State,

1 the amount of debt so certified, and the date of the entry. The entry
2 shall have the same force and effect as the entry of a docketed
3 judgment in the office of the clerk, and the State Treasurer shall have
4 all the remedies and may take all of the proceedings for the collection
5 thereof which may be had or taken upon the recovery of a judgment
6 in an action, but without prejudice to the regulated entity's right of
7 appeal.

8

9 13. (New section) a. Notwithstanding any law or regulation to the
10 contrary, a regulated entity paying the amounts assessed to it in
11 statements of the assessment made pursuant to section 3 of this act
12 shall be exempt from all fees or charges imposed by the division
13 pursuant to any other provision of law or regulation, except for:

14 (1) charter fees;

15 (2) application fees for licenses;

16 (3) mortgage solicitor registration application fees;

17 (4) fees for entry by a foreign depository institution whether from
18 another state of the United States or from another country into New
19 Jersey for branch, trust or other activities;

20 (5) fees charged under the "Governmental Unit Deposit Protection
21 Act," P.L.1970, c.236 (C.17:9-41 et seq.);

22 (6) fees charged any entity not chartered, licensed or registered by
23 this State, including but not limited to activities conducted by foreign
24 banks pursuant to section 316 of P.L.1948, c.47 (C.17:9A-316) or
25 foreign associations pursuant to section 214 of P.L.1963, c.144
26 (C.17:12B-214); and

27 (7) fees charged qualified corporations authorized pursuant to
28 section 213 of P.L.1948, c.67 (C.17:9A-213) to perform either
29 registrar and transfer agent activities or activities permitted for
30 qualified educational institutions.

31 b. Nothing in this section shall exempt a regulated entity from
32 paying any fine or penalty imposed by the commissioner for a violation
33 of a statute or regulation.

34 c. Except as provided in paragraph (1) of subsection d. of section
35 7 of the "New Jersey Home Ownership Security Act of 2002,"
36 P.L.2003, c.64 (C.46:10B-28), all fees, charges, fines and penalties as
37 described in subsections a. and b. of this subsection shall be remitted
38 to the State Treasurer for deposit into the General Fund, and those
39 fees, charges, fines and penalties shall not be part of the assessment
40 funding mechanism or considered in the calculation pursuant to section
41 15 of this act.

42

43 14. (New section) a. The State Treasurer and the commissioner
44 may adopt rules and regulations, pursuant to the "Administrative
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
46 the purposes of this act.

1 b. Any regulation promulgated by the commissioner shall describe
2 the factors to be considered in computing the assessment. In the case
3 of depository institutions, the assessment shall consider the following
4 factors as appropriate: assets, deposits or shares, trust funds under
5 management and the supervisory rating of the institution. In the case
6 of licensees or registrants, the assessment shall consider the following
7 factors as appropriate: loan volume, volume of money transmitted,
8 number of transactions, volume of checks cashed, number of licensee
9 branches, number of authorities held under the "New Jersey Licensed
10 Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.) and the
11 supervisory rating of the entity. In computing the assessment for
12 depository institutions, licensees or registrants, the commissioner may
13 consider those additional factors the commissioner deems appropriate.

14 c. The general purpose of the computations to determine the
15 assessment shall be to distribute the financial burden proportionally
16 among the depository institutions and other financial entities it
17 charters, licenses and registers consistent with the division's regulatory
18 activities.

19 d. The commissioner shall provide for the orderly and fair
20 transition to assessments on existing charters, licensees and registrants
21 by promulgating rules and regulations and by establishing
22 administrative procedures that are reasonable, necessary and consistent
23 with this act.

24

25 15. (New section) a. The total amount assessable to regulated
26 entities in any fiscal year for the assessment established by this act
27 shall not exceed the lesser of:

28 (1) the total amount of expenses incurred by the State in connection
29 with the administration of the special functions of the division pursuant
30 to section 3 of this act during the preceding fiscal year as ascertained
31 by the Director of the Division of Budget and Accounting in the
32 Department of the Treasury, on or before August 15 in each year, and
33 certified to the commissioner by category;

34 (2) .00015 times the sum of (a) the total assets for State-chartered
35 banks, savings banks, and savings and loan associations for the
36 preceding calendar year plus (b) the total loan volume for residential
37 mortgage loans closed by licensed lenders pursuant to the "New Jersey
38 Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.); or

39 (3) mortgage solicitor registration application fees.

40 b. In calculating the assessments:

41 (1) Banks, savings banks and savings and loan associations shall be
42 given prorated credit for unused portions of assessment periods; and

43 (2) Licensees shall be given prorated credit for unused portions of
44 licensing periods.

45 c. The department shall not issue an examination bill for an
46 examination that has not been completed by the date that the regulated

1 entity becomes subject to the assessment pursuant to the provisions of
2 this act. For the purposes of this act, the completion of the
3 examination shall not include the time to process and review the
4 examination report.

5
6 16. (New section) a. A depository institution that submits figures
7 on assets, deposits or any other factor used by the department to
8 compute the depository institution's assessment that are substantially
9 or materially in error shall be liable for an administrative penalty not
10 to exceed \$10,000 for each submission that contains incorrect
11 information.

12 b. A licensee that submits figures on loan volume, number of
13 branches, or any other factor used by the department to compute the
14 licensee's assessment that are substantially or materially in error shall
15 be liable for an administrative penalty not to exceed \$10,000 for each
16 submission that contains incorrect information.

17 c. In addition to any monetary penalty that may be imposed against
18 a licensee pursuant to subsection b. of this section, the commissioner
19 may take action to revoke, suspend or refuse to renew the license of
20 a licensee that submits substantially or materially erroneous figures in
21 violation of the provisions of this act. The suspension, revocation or
22 refusal to renew a license shall be in addition to any monetary penalty
23 imposed pursuant to subsection b. of this section.

24 d. The administrative penalty authorized pursuant to this section
25 may be recovered in a summary proceeding in accordance with the
26 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et
27 seq.). A willful violation of this section shall be considered a crime of
28 the third degree.

29
30 17. Section 8 of P.L.1996, c.157 (C.17:11C-8) is amended to read
31 as follows:

32 8. a. Every application for an initial license shall be accompanied
33 by an application fee [of not more than \$500, as established by the
34 commissioner by regulation] as set forth in subsection d. of this
35 section. When the applicant at the same time seeks a license to engage
36 in more than one activity, only one application fee may be charged.
37 [The] With respect to a license fee imposed prior to the
38 implementation of the assessment pursuant to P.L. c. (C.) (now
39 before the Legislature as this bill), the license fee, as prescribed by the
40 commissioner by regulation, shall be based on the number of the
41 following activities in which the person is licensed to engage under this
42 act or the "Retail Installment Sales Act of 1960," P.L.1960, c.40
43 (C.17:16C-1 et seq.): a mortgage banker or mortgage broker; a
44 secondary lender; a consumer lender; or a sales finance company. The
45 fee for a biennial license or a renewal thereof shall be set according to
46 the following schedule:

1 (1) If the person is licensed to engage in one activity, the fee shall
2 not be more than \$3,000;

3 (2) If the person is licensed to engage in two activities, the fee shall
4 not be more than \$4,000;

5 (3) If the person is licensed to engage in three activities, the fee
6 shall not be more than \$5,000; and

7 (4) If the person is licensed to engage in all four activities, the fee
8 shall not be more than \$6,000.

9 Upon implementation of the assessment pursuant to P.L. , c.
10 (C.)(now before the Legislature as this bill), a license fee shall no
11 longer be imposed or collected by the commissioner pursuant to this
12 section.

13 b. When the initial license is issued in the second year of the
14 biennial licensing period, the license fee shall equal one-half of the
15 license fee for the biennial period set forth above. In lieu of, or in
16 addition to, the fees set forth above, the department may impose other
17 fees and charges as provided by regulation.

18 c. An applicant for a mortgage solicitor registration pursuant to
19 subsection c. of section 3 of P.L.1996, c.157 (C.17:11C-3) shall be
20 subject to a mortgage solicitor registration application fee, not to
21 exceed \$100 as established by the commissioner by regulation. A
22 solicitor who changes his registration to a different licensee shall be
23 required to submit a new registration application and to pay an
24 application fee.

25 d. An applicant shall pay to the commissioner at the time of the
26 initial application for a license an application fee not to exceed the
27 amounts specified in this subsection:

28 (1) For an application for one activity, an application fee not to
29 exceed \$700;

30 (2) For an application for two activities, an application fee not to
31 exceed \$1,000;

32 (3) For an application for three activities, an application fee not to
33 exceed \$1,300; and

34 (4) For an application for four activities, an application fee not to
35 exceed \$1,600.

36 e. A licensee that seeks to add an additional activity to an existing
37 license shall pay a fee not to exceed \$300 per activity.

38 f. Fee amounts shall be prescribed by the commissioner by
39 regulation.

40 (cf: P.L.1996, c.157, s.8)

41
42 18. Section 8 of P.L.1960, c.40 (C.17:16C-8) is amended to read
43 as follows:

44 8. 【Every】 With respect to a license fee imposed prior to the
45 implementation of the assessment pursuant to P.L. , c. (C.)(now
46 before the Legislature as this bill), every motor vehicle installment

1 seller shall pay to the commissioner at the time of making the
2 application and biennially thereafter upon renewal a license fee for its
3 principal office and for each additional place of business conducted in
4 this State. The commissioner shall charge for a license such fee as he
5 shall prescribe by rule or regulation. Each fee shall not exceed
6 \$300.00. The license shall run from the date of issuance to the end of
7 the biennial period. When the initial license is issued in the second
8 year of the biennial licensing period, the fee shall be an amount equal
9 to one-half of the license fee for the biennial licensing period. Upon
10 implementation of the assessment pursuant to P.L. , c. (C.)(now
11 before the Legislature as this bill), a license fee shall no longer be
12 imposed or collected by the commissioner pursuant to this section,
13 however a motor vehicle installment seller shall pay to the
14 commissioner at the time of application an application fee not to
15 exceed \$300.00.

16 (cf: P.L.1981, c.321, s.2)

17

18 19. Section 18 of P.L.1960, c.40 (C.17:16C-18) is amended to
19 read as follows:

20 18. Every retail seller, sales finance company, motor vehicle
21 installment seller and holder shall maintain at its place or places of
22 business in this State such books, accounts and records relating to all
23 transactions within this act as will enable the commissioner to enforce
24 full compliance with the provisions of this act.

25 (cf: P.L.1960, c.40, s.18)

26

27 20. Section 19 of P.L.1960, c.40 (C.17:16C-19) is amended to
28 read as follows:

29 19. All books, accounts and records of the licensee shall be
30 preserved and kept available as provided herein for such period of time
31 as the commissioner may by regulation require. The commissioner
32 may require a licensee to file an annual report containing that
33 information required by the commissioner by regulation concerning
34 business conducted as a licensee in the preceding calendar year. The
35 report shall be submitted under oath and in the form specified by the
36 commissioner by regulation.

37 (cf: P.L.1960, c.40, s.19)

38

39 21. Section 21 of P.L.1960, c.41(C.17:16C-82) is amended to read
40 as follows:

41 21. (a) **[Every]** With respect to a license fee imposed prior to the
42 implementation of the assessment pursuant to P.L. , c. (C.)(now
43 before the Legislature as this bill, every home financing agency shall
44 pay to the commissioner at the time of making the application and
45 biennially thereafter upon renewal a license fee for its principal place
46 of business and for each additional place of business conducted in this

1 State. The commissioner shall charge for a license such fee as he shall
2 prescribe by rule or regulation. Each fee shall not exceed \$600.00.
3 The license shall run from the date of issuance to the end of the
4 biennial period. When the initial license is issued in the second year of
5 the biennial licensing period, the license fee shall be an amount equal
6 to one-half of the fee for the biennial licensing period. Upon
7 implementation of the assessment pursuant to P.L. , c. (C.)(now
8 before the Legislature as this bill), a license fee shall no longer be
9 imposed or collected by the commissioner pursuant to this section,
10 however a home financing agency shall pay to the commissioner at the
11 time of application an application fee not to exceed \$600.00.

12 (b) **[Every]** With respect to a license fee imposed prior to the
13 implementation of the assessment pursuant to P.L. , c. (C.)(now
14 before the Legislature as this bill, every home repair contractor shall
15 pay to the commissioner at the time of making the application and
16 biennially thereafter upon renewal a license fee for its principal place
17 of business and for each additional place of business conducted in this
18 State. The commissioner shall charge for a license such fee as he shall
19 prescribe by rule or regulation. Each fee shall not exceed \$300.00.
20 The license shall run from the date of issuance to the end of the
21 biennial period. When the initial license is issued in the second year of
22 the biennial licensing period, the license fee shall be an amount equal
23 to one-half of the fee for the biennial licensing period. Upon
24 implementation of the assessment pursuant to P.L. , c. (C.)(now
25 before the Legislature as this bill), a license fee shall no longer be
26 imposed or collected by the commissioner pursuant to this section,
27 however a home repair contractor shall pay to the commissioner at the
28 time of application an application fee not to exceed \$300.00.

29 (c) **[Every]** With respect to a license fee imposed prior to the
30 implementation of the assessment pursuant to P.L. , c. (C.)(now
31 before the Legislature as this bill, every home repair salesman shall pay
32 to the [commission] commissioner at the time of making the
33 application and biennially thereafter upon renewal a license fee. The
34 commissioner shall charge for a license such fee as he shall prescribe
35 by rule or regulation, not to exceed \$60.00. The license shall run from
36 the date of issuance to the end of the biennial period. When the initial
37 license is issued in the second year of the biennial licensing period, the
38 license fee shall be an amount equal to one-half of the fee for the
39 biennial licensing period. Upon implementation of the assessment
40 pursuant to P.L. , c. (C.)(now before the Legislature as this
41 bill), a license fee shall no longer be imposed or collected by the
42 commissioner pursuant to this section, however a home repair
43 salesman shall pay to the commissioner at the time of application an
44 application fee not to exceed \$60.00.

45 (cf: P.L.1981, c.321, s.3)

1 22. Section 26 of P.L.1960, c. 41 (C.17:16C-87) is amended to
2 read as follows:

3 26. a. Every home repair contractor, home financing agency and
4 holder of a home repair contract shall maintain at its place or places of
5 business such books, accounts and records relating to all transactions
6 under this act as will enable the commissioner to enforce full
7 compliance with the provisions hereof. All such books, accounts and
8 records shall be preserved and kept available for such period of time
9 as the commissioner may by regulation require. The commissioner
10 may prescribe the minimum information to be shown in such books,
11 accounts and records of the licensee so that such records will enable
12 the commissioner to determine compliance with the provisions of this
13 act.

14 b. The commissioner may require a licensee to file an annual report
15 containing that information required by the commissioner by regulation
16 concerning business conducted as a licensee in the preceding calendar
17 year. The report shall be submitted under oath and in the form
18 specified by the commissioner by regulation.

19 (cf: P.L.1960, c.41, s.26)

20

21 23. Section 4 of P.L.1968, c.221 (C.17:16D-4) is amended to read
22 as follows:

23 4. Licenses. No person shall engage in the business of financing
24 insurance premiums in this State without first having obtained a license
25 as a premium finance company from the Commissioner of Banking and
26 Insurance, except that any State or national bank authorized to do
27 business in this State shall be authorized to transact business as a
28 premium finance company, subject to all of the provisions of this act,
29 except that it shall not be required to obtain a license or pay a license
30 fee hereunder. Any person who shall engage in the business of
31 financing insurance premiums in this State without a valid license as
32 provided hereunder shall, upon conviction as provided in R.S. 17:33-2,
33 be subject to a fine of not more than \$300.00. [The] With respect to
34 a license fee imposed prior to the implementation of the assessment
35 pursuant to P.L. , c. (C.)(now before the Legislature as this
36 bill), the commissioner shall charge for a license such fee as he shall
37 prescribe by rule or regulation, not to exceed \$1,000.00. Upon
38 implementation of the assessment pursuant to P.L. , c. (C.)(now
39 before the Legislature as this bill), a license fee shall no longer be
40 imposed or collected by the commissioner pursuant to this section,
41 however an insurance premium finance agency shall pay to the
42 commissioner at the time of application an application fee not to
43 exceed \$1,000.00. The license shall run from the date of issuance to
44 the end of the biennial period. [When] With respect to a license fee
45 imposed prior to implementation of the assessment pursuant to P.L.
46 , c. (C.)(now before the Legislature as this bill), when the initial

1 license is issued in the second year of the biennial licensing period, the
2 license fee shall be an amount equal to one-half of the fee for the
3 biennial licensing period.

4 Licenses may be renewed from year to year as of January 1 of each
5 year upon payment of the fee established by the commissioner with
6 respect to a license fee imposed prior to implementation of the
7 assessment pursuant to P.L. , c. (C.)(now before the Legislature
8 as this bill). The fee imposed prior to implementation of the
9 assessment pursuant to P.L. , c. (C.)(now before the Legislature
10 as this bill), for said license shall be paid to the commissioner for the
11 use of the State. No portion of the license fee imposed prior to
12 implementation of the assessment pursuant to P.L. , c. (C.)(now
13 before the Legislature as this bill), shall be refunded if the license is
14 surrendered by the licensee or suspended or revoked by the
15 commissioner.

16 Before any licensee changes his address he shall return his license
17 to the commissioner who shall indorse the license indicating the
18 change.

19 The person to whom the license or the renewal thereof may be
20 issued shall file sworn answers, subject to the penalties of perjury, to
21 such interrogatories as the commissioner may require. The
22 commissioner shall have authority, at any time, to require the applicant
23 fully to disclose the identity of all stockholders, partners, officers and
24 employees, and he may, in his discretion, refuse to issue or renew a
25 license in the name of any firm, partnership, or corporation if he is not
26 satisfied that any officer, employee, stockholder, or partner thereof
27 who may materially influence the applicant's conduct meets the
28 standards of this act.

29 (cf: P.L.1981, c.321, s.4)

30

31 24. Section 5 of P.L.1979, c.16 (C.17:16G-5) is amended to read
32 as follows:

33 5. a. Any social service agency or consumer credit counseling
34 agency licensed under this act shall be bonded to the satisfaction of the
35 commissioner and shall have its financial records relating to debt
36 adjustment audited annually by a certified public accountant or a
37 **[registered]** public accountant, which audit shall be filed with the
38 commissioner. Such an audit shall certify that the salaries and
39 expenses paid by the licensee are reasonable compared to those
40 incurred by comparable organizations providing similar services. After
41 reviewing the annual audit, the Commissioner of Banking and
42 Insurance may cause an examination of the social service agency or
43 consumer credit counseling agency to be made, the actual expenses of
44 such an examination shall be paid by the social service agency or
45 consumer credit counseling agency; and the commissioner may
46 maintain any action against any such agency to recover the fees and

1 expenses herein provided for.

2 b. The commissioner may require a licensee to file an annual report
3 containing that information required by the commissioner by regulation
4 concerning activities conducted as a licensee in the preceding calendar
5 year. The report shall be submitted under oath and in the form
6 specified by the commissioner by regulation.

7 c. The commissioner may require a high cost home loan counselor
8 to file an annual report containing that information required by the
9 commissioner by regulation concerning activities conducted pursuant
10 to subsection g. of section 5 of P.L.2003, c.64 (C.46:10B-26) as a
11 registrant in the preceding calendar year. The report shall be
12 submitted under oath and in the form specified by the commissioner by
13 regulation.

14 (cf: P.L.1979, c.16, s.5)

15

16 25. Sections 3 and 14 of this act shall take effect immediately, and
17 the remainder of this act shall take effect upon the adoption of
18 regulations pursuant to sections 3 and 14 of this act and the
19 commissioner may take those anticipatory actions necessary to
20 effectuate the provisions of this act.

21

22

23

STATEMENT

24

25 This bill establishes a dedicated assessment funding mechanism for
26 the special needs of the Division of Banking in the Department of
27 Banking and Insurance associated with the financial regulation,
28 supervision and monitoring of the depository institutions and other
29 financial entities that it charters and licenses and individuals that it
30 licenses and registers. The Division of Banking has a statutory
31 obligation to protect the interests of New Jersey's consumers and to
32 regulate and oversee the operations of these financial entities.

33 Under the provisions of this bill, the actual incurred expenses of the
34 Division of Banking for all services related to the division's financial
35 regulation, supervision and monitoring of the depository institutions
36 and other financial entities it charters, licenses and registers will be
37 assessed among those entities.

38 The bill authorizes the State Treasurer to collect unpaid
39 assessments and provides a process whereby the regulated entity may
40 file objections to the assessment. After paying the assessment, a
41 regulated entity may dispute the assessment amount in a court action
42 against the State. The bill caps the total amount that a regulated entity
43 may be assessed in any fiscal year. Depository institutions and
44 regulated entities that submit assessment data that is substantially in
45 error are liable for administrative penalties under the provisions of the
46 bill.

1 The bill also establishes license application fees for certain regulated
2 entities that currently do not pay such a fee and provides for the
3 eventual elimination of annual license renewal fees for those entities.
4 Under the bill application fees are established for the following
5 regulated entities: motor vehicle installment sellers; home financing
6 agencies; home repair contractors; home repair salesmen; and
7 insurance premium finance companies.

8 In addition, the bill permits the Commissioner of Banking and
9 Insurance to require the submission of annual reports from certain
10 regulated entities that previously had not been under such a
11 requirement. The bill provides that the commissioner may require a
12 licensee to file an annual report containing that information required
13 by the commissioner by regulation concerning business conducted as
14 a licensee in the preceding calendar year. The report shall be
15 submitted under oath and in the form specified by the commissioner by
16 regulation. As provided in the bill, those regulated entities which may
17 be required to file an annual report include: motor vehicle installment
18 sellers; home financing agencies; home repair contractors; home repair
19 salesmen; and social service agencies, consumer credit counseling
20 agencies and high cost home loan counselors that provide debt
21 counseling services to consumers.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1760

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 26, 2005

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1760.

As amended, this bill establishes a dedicated assessment funding mechanism for the Division of Banking in the Department of Banking and Insurance for its costs associated with the regulation, supervision and monitoring of the depository institutions, other financial entities and individuals that it charters, licenses and registers. Under the bill, the actual incurred expenses of the Division of Banking for all services related to the division's financial regulation, supervision and monitoring activities will be assessed among those entities.

The bill authorizes the State Treasurer to collect unpaid assessments and provides a process whereby the regulated entity may file objections to the assessment. After paying the assessment, a regulated entity may dispute the assessment amount in a court action against the State. The bill caps the total amount that a regulated entity may be assessed in any fiscal year. Depository institutions and regulated entities that submit assessment data that is substantially in error are liable for administrative penalties under the provisions of the bill.

The bill also establishes license application fees for certain regulated entities that currently do not pay such a fee and provides for the eventual elimination of annual license renewal fees for those entities. Under the bill application fees are established for the following regulated entities: motor vehicle installment sellers; home financing agencies; home repair contractors; home repair salesmen; and insurance premium finance companies.

In addition, the bill permits the Commissioner of Banking and Insurance to require the submission of annual reports from certain regulated entities that previously had not been under such a requirement. The bill provides that the commissioner may require a licensee to file an annual report containing that information required by the commissioner by regulation concerning business conducted as a licensee in the preceding calendar year. The report shall be submitted under oath and in the form specified by the commissioner by

regulation. As provided in the bill, those regulated entities which may be required to file an annual report include: motor vehicle installment sellers; home financing agencies; home repair contractors; home repair salesmen; and social service agencies, consumer credit counseling agencies and high cost home loan counselors that provide debt counseling services to consumers.

The committee amended the bill to require the commissioner to consider the impact of the assessment on licensed check cashers. This consideration recognizes that the fees that may be charged are limited by statute and regulation.

The committee also amended the effective date of the bill to clarify that no assessment will be payable earlier than July 1, 2006.

A technical amendment is also made to remove an inadvertent reference to certain application fees in the provision limiting the total amount assessable in any fiscal year.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1760

STATE OF NEW JERSEY

DATED: JUNE 16, 2005

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1760 (1R).

This bill establishes a dedicated assessment funding mechanism for the special needs of the Division of Banking in the Department of Banking and Insurance associated with the financial regulation, supervision and monitoring of the depository institutions and other financial entities that it charters and licenses and individuals that it licenses and registers. The Division of Banking has a statutory obligation to protect the interests of New Jersey's consumers and to regulate and oversee the operations of these financial entities.

Under the provisions of this bill, the actual incurred expenses of the Division of Banking for all services related to the division's financial regulation, supervision and monitoring of the depository institutions and other financial entities it charters, licenses and registers will be assessed among those entities.

The bill authorizes the State Treasurer to collect unpaid assessments and provides a process whereby the regulated entity may file objections to the assessment. After paying the assessment, a regulated entity may dispute the assessment amount in a court action against the State. The bill caps the total amount that a regulated entity may be assessed in any fiscal year. Depository institutions and regulated entities that submit assessment data that is substantially in error are liable for administrative penalties under the provisions of the bill.

The bill also establishes license application fees for certain regulated entities that currently do not pay such a fee and provides for the eventual elimination of annual license renewal fees for those entities. Under the bill application fees are established for the following regulated entities: motor vehicle installment sellers; home financing agencies; home repair contractors; home repair salesmen; and insurance premium finance companies.

In addition, the bill permits the Commissioner of Banking and Insurance to require the submission of annual reports from certain regulated entities that previously had not been under such a requirement. The bill provides that the commissioner may require a

licensee to file an annual report containing that information required by the commissioner by regulation concerning business conducted as a licensee in the preceding calendar year. The report shall be submitted under oath and in the form specified by the commissioner by regulation. As provided in the bill, those regulated entities which may be required to file an annual report include: motor vehicle installment sellers; home financing agencies; home repair contractors; home repair salesmen; and social service agencies, consumer credit counseling agencies and high cost home loan counselors that provide debt counseling services to consumers.

FISCAL IMPACT:

The bill provides a dedicated funding mechanism for the Division of Banking which mirrors the existing funding mechanisms for the Division of Insurance, Real Estate Commission and Bureau of Securities within the Department of Banking and Insurance. The Division of Banking budget would be based on an assessment of the industry, while other existing revenue streams, such as fines and penalties, new charter fees and certain license application fees, would continue to flow to the General Fund. According to the bill, the assessment will be implemented in FY 2007.

The Office of Legislative Services estimates that the bill will result in additional General Fund revenue of \$664,000 for FY 2007 and approximately \$1 million for FY 2008 and FY 2009. The Department of Banking and Insurance indicates that it plans to hire 34 employees over FY 2006 (10 new hires), FY 2007 (12 new hires) and FY 2008 (12 new hires). The department anticipates that salaries and other costs associated with the new hires from FY 2007 forward will be funded from the new assessment as set forth in the bill. The new staff additions are expected to increase fine and penalty revenue annually accounting for close to \$1 million in additional revenue for the General Fund.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1760

STATE OF NEW JERSEY

211th LEGISLATURE

DATED: JULY 1, 2005

SUMMARY

Synopsis: Establishes an assessment funding mechanism for the support of Division of Banking and imposes certain additional fees and reports.

Type of Impact: Revenue gain

Agencies Affected: Department of Banking and Insurance

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
State Revenue	\$664,000	\$1 million	\$1 million

- ! The Office of Legislative Services estimates that the bill will result in additional General Fund revenue of \$664,000 for FY 2007 and approximately \$1 million for FY 2008 and FY 2009. The Department of Banking and Insurance indicates that it plans to hire 34 employees over FY 2007 (12 new hires), FY 2008 (12 new hires) and FY 2009 (10 new hires). The department anticipates that salaries and other costs associated with the new hires from FY 2007 forward will be funded from the new assessment as set forth in the bill. The new staff additions are expected to increase fine and penalty revenue annually accounting for close to \$1 million in additional revenue for the General Fund.
- ! The bill provides a dedicated funding mechanism for the Division of Banking which mirrors the existing funding mechanisms for the Division of Insurance and the Real Estate Commission within the Department of Banking and Insurance.
- ! The Division of Banking budget would be based on an assessment of the industry, while other existing revenue streams, such as fines and penalties, new charter fees and certain license application fees, would continue to flow to the General Fund. According to the bill, the assessment will be implemented in FY 2007.

BILL DESCRIPTION

Senate Bill No. 1760 (1R) of 2005 establishes a dedicated assessment funding mechanism for the Division of Banking in the Department of Banking and Insurance for its costs associated with

the regulation, supervision and monitoring of the depository institutions, other financial entities and individuals that it charters, licenses and registers. Under the bill, the actual incurred expenses of the Division of Banking for all services related to the division's financial regulation, supervision and monitoring activities will be assessed among these entities. The bill authorizes the State Treasurer to collect unpaid assessments and provides a process whereby the regulated entity may file objections to the assessment.

The bill also establishes license application fees for certain regulated entities that currently do not pay such a fee and provides for the eventual elimination of annual license renewal fees for those entities. Under the bill application fees are established for the following regulated entities: motor vehicle installment sellers; home financing agencies; home repair contractors; home repair salesmen; and insurance premium finance companies. The bill requires the commissioner to consider the impact of the assessment on licensed check cashers.

In addition, the bill permits the Commissioner of Banking and Insurance to require the submission of annual reports from certain regulated entities that previously had not been under such a requirement. The bill provides that the commissioner may require a licensee to file an annual report containing that information required by the commissioner by regulation concerning business conducted as a licensee in the preceding calendar year. The report shall be submitted under oath and in the form specified by the commissioner by regulation. As provided in the bill, those regulated entities which may be required to file an annual report include: motor vehicle installment sellers; home financing agencies; home repair contractors; home repair salesmen; and social service agencies, consumer credit counseling agencies and high cost home loan counselors that provide debt counseling services to consumers.

According to the bill, no assessment will be payable prior to July 1, 2006.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services) estimates that the bill will result in additional General Fund revenue of \$664,000 for FY 2007 and approximately \$1 million for FY 2008 and FY 2009. The Department of Banking and Insurance indicates that it plans to hire 34 employees over FY 2007 (12 new hires), FY 2008 (12 new hires) and FY 2009 (10 new hires). The department anticipates that salaries and other costs associated with the new hires from FY 2007 forward will be funded from the new assessment as set forth in the bill. The new staff additions are expected to increase fine and penalty revenue annually accounting for close to \$1 million in additional revenue for the General Fund.

The bill provides a dedicated funding mechanism for the Division of Banking which mirrors the existing funding mechanisms for the Division of Insurance and the Real Estate Commission within the Department of Banking and Insurance. The Division of Banking budget would be based on an assessment of the industry, while other existing revenue streams, such as fines and penalties, new charter fees and certain license application fees, would continue to flow to the General Fund. According to the bill, the assessment will be implemented in FY 2007.

Section: *Commerce, Labor and Industry*

Analyst: *Sonya S. Davis*
Associate Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.