

17:16S-1

**LEGISLATIVE HISTORY CHECKLIST**  
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(Banks--revise law)

**NJSA:** 17:16S-1

**LAWS OF:** 1997 **CHAPTER:** 33

**BILL NO:** A1829

**SPONSOR(S):** Bateman

**DATE INTRODUCED:** May 2, 1996

**COMMITTEE:** **ASSEMBLY:** Financial Institutions

**SENATE:** ---

**AMENDED DURING PASSAGE:** Yes Amendments during passage denoted by  
Third reprint enacted by superscript numbers

**DATE OF PASSAGE:** **ASSEMBLY:** December 12, 1996

**SENATE:** January 27, 1997

**DATE OF APPROVAL:** March 7, 1997

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes Also attached: statement with  
floor amendments; adopted  
10-21-96; statement adopted  
9-26-96

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes

**SENATE:** No

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

KBP:pp

[Third Reprint]  
ASSEMBLY, No. 1829

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1996

By Assemblymen BATEMAN, AUGUSTINE and Zecker

1 AN ACT concerning banking and revising parts of the statutory law.

2

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

5

6 1. (New section) The Legislature finds and declares that banks and  
7 certain other financial institutions are subject to certain laws and  
8 regulations which duplicate or conflict with applicable federal laws and  
9 regulations, or which are otherwise currently unnecessary and  
10 overburdensome, all of which increase the cost of banking services to  
11 New Jersey depositors and borrowers and which deter banking  
12 institutions from locating in this State.

13

14 2. Section 5 of P.L.1985, c.81 (C.17:3B-8) is amended to read as  
15 follows:

16 5. Periodic percentage rates. If the agreement governing the  
17 revolving credit plan **[so]** provides~~[,]that~~ the periodic percentage  
18 rates of interest under the plan may increase or decrease, the increase  
19 or decrease shall take place only in correspondence with the movement  
20 of the market interest rate index specified in the revolving credit plan  
21 agreement, which index shall be readily verifiable by the borrower and  
22 beyond the control of the lender. Periodic percentage rate increases,  
23 based on a rise in the interest rate index, may be made at the option of  
24 the lender. Periodic percentage rate decreases shall be made whenever  
25 there is a decrease in the interest rate index which results in an interest  
26 rate which is less than the interest rate then applicable to the note or  
27 loan, except that the revolving credit plan agreement may stipulate a  
28 percentage decrease in the interest rate index below which a  
29 corresponding decrease in the periodic percentage rate need not be  
30 made by the lender, provided that the index decrement shall be the

**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:

<sup>1</sup> Assembly AFI committee amendments adopted May 13, 1996.

<sup>2</sup> Assembly floor amendments adopted September 26, 1996.

<sup>3</sup> Assembly floor amendments adopted October 21, 1996.

1 same as the index increment used for interest rate increases. Interest  
2 rate increases may, and interest rate decreases shall, apply to all  
3 outstanding unpaid indebtedness under the plan on or after the  
4 effective date of the rate variation, as provided in the plan agreement.  
5 (cf: P.L.1985, c.81, s.5)

6  
7 3. Section 9 of P.L.1985, c.81 (C.17:3B-12) is amended to read as  
8 follows:

9 9. Loans under a revolving credit plan. ~~【A】 If the agreement~~  
10 ~~governing the revolving credit plan so provides, a~~ lender may:

11 a. Take personal ~~or real property, or both,~~ as security on a loan  
12 made under a revolving credit plan;

13 b. Require that any property securing the loan be insured for the  
14 benefit of the lender against loss or damage of the security, and retain  
15 out of the proceeds of the loan the premium for the insurance;

16 c. Require that all taxes, assessments and other governmental  
17 charges against ~~【personal】~~ property securing the loan be paid when  
18 due and that the security be maintained free of all executions, levies,  
19 encumbrances, and other charges which may adversely affect the value  
20 of the lender's interest in the security;

21 ~~d. Charge and collect fees and charges, in addition to interest and~~  
22 ~~fees and charges specifically permitted by P.L.1985, c.81 (C.17:3B-4~~  
23 ~~et seq.), in amounts as provided in the agreement or as established in~~  
24 ~~the manner the agreement provides, such as, but not limited to,~~  
25 ~~minimum charges, annual fees, check charges, maintenance charges,~~  
26 ~~and late charges, except as may be specifically limited by P.L.1985,~~  
27 ~~c.81 (C.17:3B-4 et seq.);~~

28 <sup>3</sup>~~【f.】e.~~<sup>3</sup> ~~On a secured loan, charge and collect the actual costs of~~  
29 ~~filing or recording the instrument of security, or notice or abstract~~  
30 ~~thereof, if the filing or recording is authorized by law.~~

31 (cf: P.L.1985, c.81, s.9)

32  
33 4. Section 10 of P.L.1985, c.81 (C.17:3B-13) is amended to read  
34 as follows:

35 10. Revolving credit plan prohibitions. No revolving credit plan  
36 agreement shall contain:

37 a. An acceleration clause under which any part or all of the  
38 balance, not yet matured, may be declared immediately due and  
39 payable because the lender deems himself to be insecure, which  
40 provision shall be void and unenforceable;

41 b. A provision whereby the borrower waives any right of action or  
42 defense against the lender or other person acting on his behalf for any  
43 illegal act committed in the collection of the payments under the  
44 revolving credit plan, which provision shall be void and unenforceable;  
45 ~~and~~

46 c. A power of attorney to confess judgment or any other power of

1 attorney, which provision shall be void and unenforceable **【; and】** .

2 d. **【A requirement that the credit be secured by real property.】**

3 ~~(Deleted by amendment, P.L. ., c. .)~~

4 (cf: P.L.1985, c.81, s.10)

5

6 5. Section 12 of P.L.1985, c.81 (C.17:3B-15) is amended to read  
7 as follows:

8 12. Changes in terms. a. A lender may, if the agreement governing  
9 a revolving credit plan so provides, at any time amend the terms of the  
10 agreement with respect to the periodic percentage rates used to  
11 calculate interest, the method of computing the outstanding unpaid  
12 indebtedness to which those rates are applied, and the terms of the  
13 installment repayment schedule, subject to the limitations of subsection  
14 b. of this section.

15 b. The lender shall notify each affected borrower of any  
16 amendment pursuant to subsection a. by mailing or delivering to the  
17 borrower, at least **【30】<sup>3</sup>【15】<sup>3</sup> 30<sup>3</sup>** days before the effective date of the  
18 amendment, a clear and conspicuous written notice which shall  
19 describe the amendment and the existing terms of the agreement  
20 affected by the amendment and shall also set forth the effective date  
21 of the amendment and the pertinent information contemplated by the  
22 following provisions of this section. If the amendment has the effect  
23 of increasing the interest or other charges to be paid by the borrower  
24 by changing the method of calculating interest or the index used to  
25 calculate the interest, the amendment shall become effective only if the  
26 borrower uses the plan after a date specified in the notice which is at  
27 least **【30】<sup>3</sup>【15】<sup>3</sup> 30<sup>3</sup>** days after the giving of the notice, but which  
28 need not be the date the amendment becomes effective, by making a  
29 purchase or obtaining a loan, or if the borrower indicates to the lender  
30 in writing the borrower's express agreement to the amendment, and the  
31 amendment may become effective as to a particular borrower as of the  
32 first day of the billing period during which the borrower so used the  
33 borrower's account or so indicated agreement to the amendment. Any  
34 borrower who fails to use the borrower's account or so to indicate  
35 agreement to an amendment shall be permitted to pay the outstanding  
36 unpaid indebtedness in the borrower's account under the plan in  
37 accordance with the terms of the agreement governing the plan  
38 without giving effect to the amendment.

39 For purposes of this section a variation in periodic percentage rates  
40 of interest in accordance with the terms of the index established in the  
41 revolving credit plan agreement**【and notice provided pursuant to**  
42 **section 25】** shall not be considered to be an amendment.

43 (cf: P.L.1985, c.81, s.12)

44

45 6. Section 15 of P.L.1985, c.81 (C.17:3B-18) is amended to read  
46 as follows:

1       15.    Periodic percentage rates. The periodic percentage rates of  
2 interest charged and collected with respect to a loan under a closed  
3 end credit agreement may, subject to any limitations set forth in the  
4 loan agreement, vary in accordance with the market interest rate index  
5 specified in the loan agreement, which index shall be readily verifiable  
6 by the borrower and beyond the control of the lender. Periodic  
7 percentage rate increases, based on a rise in the interest rate index,  
8 may be made at the option of the lender. Periodic percentage rate  
9 decreases shall be made whenever there is a decrease in the interest  
10 rate index which results in an interest rate which is less than the  
11 interest rate then applicable to the note or loan, except that the loan  
12 agreement may stipulate a percentage decrease below which a  
13 corresponding decrease in the periodic percentage rate need not be  
14 made by the lender, provided the index decrement shall be the same as  
15 the index increment used for interest rate increases. Interest rate  
16 increases may, and interest rate decreases shall, apply to any  
17 outstanding and unpaid loan balances on or after the effective date of  
18 the rate variation. Upon an increase in the rate of interest, the term of  
19 the note shall be extended as necessary to provide for payment of the  
20 balance due without any increase in the amount of each of the  
21 borrower's periodic payments, except that the periodic payments may  
22 be increased, if either a. ~~the borrower, at his option within 20 days of~~  
23 ~~the date of the notice provided by the lender pursuant to section 25,~~  
24 ~~specifically requests the lender, in writing, to increase each periodic~~  
25 ~~payment or the final payment, rather than extend the term] the  
26 agreement so provides or the parties agree to the increase in writing,  
27 or b. if the periodic payment amounts would not be sufficient to  
28 reduce the principal amount due, the lender, no sooner than 30 days  
29 after notifying the borrower of that fact [pursuant to section 25], may  
30 require that the periodic payments be increased, or that there be a  
31 combination of an extended term and increased periodic payments.  
32 (P.L.1985, c.81, s.15)~~

33  
34       7. Section 16 of P.L.1985, c.81 (C.17:3B-19) is amended to read  
35 as follows:

36       16. Additional charges. If the closed end loan agreement on a  
37 secured loan so provides, a lender may ~~[, on a secured loan, charge]~~:

38       a. Charge and collect the actual costs of filing or recording the  
39 instrument of security, or notice or abstract thereof, if the filing or  
40 recording is authorized by law.

41       b. Charge and collect fees and charges, in addition to interest and  
42 fees and charges specifically permitted by P.L.1985, c.81 (C.17:3B-4  
43 et seq.), in amounts as provided in the agreement or as established in  
44 the manner the agreement provides, such as, but not limited to,  
45 minimum charges, check charges and maintenance charges, and late

1 charges except as may be specifically limited by P.L.1985, c.81  
2 (C.17:3B-4 et seq.)  
3 (cf: P.L.1985, c.81, s.16)

4  
5 8. Section 18 of P.L.1985, c.81 (C.17:3B-21) is amended to read  
6 as follows:

7 18. Insurance. A lender under a closed or open end credit  
8 agreement may:

9 a. Subject to the terms of the loan agreement, require any property  
10 securing the loan to be insured for the benefit of the lender against loss  
11 or damage of the security;

12 b. Offer credit life insurance or credit accident and health  
13 insurance, or both, on the borrower in accordance with the provisions  
14 of chapter 29 of Title 17B of the New Jersey Statutes.

15 A lender may deduct and retain from the proceeds of the loan the  
16 amount of the premium for any insurance provided by the lender to the  
17 borrower pursuant to this section.

18 (cf: P.L.1985, c.81, s.18).

19

20 9. Section 1 of P.L.1966, c.79 (C.17:9A-18.1) is amended to read  
21 as follows:

22 1. Except with the written consent of the commissioner, no person  
23 **【who has been convicted, or who is hereafter convicted of any crime**  
24 **involving dishonesty or a breach of trust,】**shall **【thereafter】** serve as  
25 an officer, director or employee of a bank **【or】** a savings bank**【;**  
26 **provided, however, the pendency of an appeal from said conviction**  
27 **shall stay the operation of the prohibition until the appeal is decided**  
28 **or dismissed】** or bank holding company if (a) that person is convicted  
29 of any crime involving dishonesty or breach of trust, or (b) that person  
30 is prohibited from serving or continuing to serve in such capacity  
31 pursuant to 12 U.S.C. §1829.

32 (cf: P.L.1966, c.79, s.1)

33

34 <sup>2</sup>10. Section 60 of P.L.1948, c.67 (C.17:9A-60) is amended to read  
35 as follows:

36 60. Definitions.

37 For the purposes of this article,

38 (1) "Person" means an individual, partnership, corporation,  
39 association or body politic, or any similar entity or organization;

40 (2) "Investment securities" means those marketable corporate  
41 obligations in the form of bonds, debentures or similar instruments as  
42 are commonly known as investment securities, under such further  
43 definition of investment securities as may by regulation be prescribed  
44 by the commissioner;

45 (3) **【**"Total liabilities" means the aggregate of all direct liabilities  
46 of the maker or acceptor of paper discounted with or sold to the bank

1 and the liability of the endorser, drawer, maker or guarantor who  
2 obtains a loan from or discounts paper with or sells paper under his  
3 guaranty to such bank. Liabilities which, by virtue of section 61 or of  
4 regulations promulgated pursuant to section 62, are excepted from the  
5 limitations imposed by this article, are not included in "total  
6 liabilities";] (~~Deleted by amendment, P.L. ., c. .~~)

7 (4) **["Controlling interest" means controlling interest as defined in  
8 section 71;]** (~~Deleted by amendment, P.L. ., c. .~~)

9 (5) **["Subsidiary" means a corporation in which another  
10 corporation holds a controlling interest;]** (~~Deleted by amendment,  
11 P.L. ., c. .~~)

12 (6) **["The total liabilities of a corporation include (a) the total  
13 liabilities of a person who holds a controlling interest in such  
14 corporation; and (b) the total liabilities of all subsidiaries of such  
15 corporation; except that, in the case of any subsidiary having capital,  
16 surplus and undivided profits aggregating \$5,000,000.00 or more, the  
17 total liabilities of such subsidiary may, subject to the approval of the  
18 commissioner and the banking advisory board, be excluded from the  
19 total liabilities of such corporation, and the total liabilities of such  
20 corporation may, subject to like approval, be excluded from the total  
21 liabilities of such subsidiary;]** (~~Deleted by amendment, P.L. .,  
22 c. .~~)

23 (7) **["The total liabilities of an individual include (a) the total  
24 liabilities of a partnership or association for whose obligations such  
25 individual is liable; and (b) the total liabilities of a corporation in  
26 which such individual holds a controlling interest;]** (~~Deleted by  
27 amendment, P.L. ., c. .~~)

28 (8) **["The total liabilities of a partnership or association include the  
29 total liabilities of its members who are liable for its obligations;]**  
30 (~~Deleted by amendment, P.L. ., c. .~~)

31 (9) "Capital funds" of a bank ~~or savings bank~~ means the aggregate  
32 of the unimpaired capital stock, surplus and undivided profits of the  
33 bank ~~or savings bank~~ plus all other funds which are authorized by law  
34 to be included in capital funds for the purposes of this article. The  
35 commissioner may, by regulation, provide that contingent reserves of  
36 a bank ~~or savings bank~~, as defined in such regulation, may be included  
37 in the capital funds of a bank ~~or savings bank~~ for the purposes of this  
38 article **[, and for the purposes of section 69]** ;

39 **(10) "Loans and extension of credit" means a bank's or savings  
40 bank's direct or indirect advance of funds to or on behalf of a borrower  
41 based on an obligation of the borrower to repay the funds or  
42 repayable from specific property pledged by or on behalf of the  
43 borrower;**

44 **(11) "Borrower" means a person who is named as a borrower or  
45 debtor in a loan or extension of credit. Loans or extensions of credit**

1 to one borrower shall be attributed to another person and each person  
2 shall be deemed a borrower: (a) when proceeds of a loan or extension  
3 of credit are to be used for the direct benefit of the other person, to  
4 the extent of the proceeds so used; or (b) when a common enterprise  
5 is deemed to exist between the persons.<sup>2</sup>

6 (cf: P.L.1969, c.244, s.3)

7

8 <sup>2</sup>11. Section 62 of P.L.1948, c.67 (C.17:9A-62) is amended to read  
9 as follows:

10 62. Limitations on Liability.

11 A. **【**Except as provided in this article, the total liabilities of any  
12 person shall not exceed 10% of the capital funds of the bank.**】** The  
13 total loans and extensions of credit by a bank or savings bank  
14 outstanding to one borrower at one time and not fully secured by  
15 collateral having a market value at least equal to the amount of the  
16 loans and extensions of credit shall not exceed 15 percent of the  
17 capital funds of the bank or savings bank.

18 B. **【**The total liabilities of any person may exceed 10% but may not  
19 exceed 25% of the capital funds of the bank if the amount of such total  
20 liabilities which is in excess of 10% of the capital funds of the bank  
21 consists of obligations as endorser or guarantor of notes, other than  
22 commercial or business paper excepted from the application of this  
23 article under paragraph (5) of section 61, having a maturity of not  
24 more than 6 months, and owned by the person endorsing and  
25 negotiating the same.**】** The total loans and extensions of credit by a  
26 bank or savings bank outstanding to one borrower at one time and  
27 fully secured by readily available marketable collateral having a market  
28 value, as determined by reliable and continuously available price  
29 quotations, at least equal to the amount of the funds outstanding shall  
30 not exceed 10 percent of the capital funds of the bank or savings bank.  
31 This limitation shall be separate from and in addition to the limitation  
32 contained in subsection A of this section. If a bank's or savings bank's  
33 lending limit calculated under this subsection and under subsection A  
34 of this section is less than \$500,000, the bank or savings bank may  
35 nevertheless have total loans and extensions of credit outstanding to  
36 one borrower at one time not to exceed \$500,000.

37 C. Except as the commissioner may otherwise prescribe from time  
38 to time by regulation promulgated pursuant to subsection H of this  
39 section, the total **【**liabilities of**】** loans and extensions of credit to a  
40 person **【**to**】** by a bank or savings bank shall not be subject to any  
41 limitations imposed by this article, to the extent that **【**liabilities**】** loans  
42 and extensions of credit are secured by direct or indirect obligations  
43 of the United States which have a face or par value at least equal to  
44 the amount of such **【**liabilities**】** loans and extensions of credit, and  
45 which are fully guaranteed as to principal and interest by the United  
46 States.



1 D. Except as the commissioner may otherwise prescribe from time  
2 to time by regulation promulgated pursuant to subsection H of this  
3 section, loans and extensions of credit to, and investments in the  
4 obligations of any municipality or school district of this State may  
5 equal but not exceed 100% of the capital funds of a bank.

6 E. The commissioner may, from time to time, approve the  
7 obligations of any other State of the United States, or of any political  
8 or municipal or county subdivision or instrumentality thereof, or of  
9 any political subdivision or instrumentality of a municipality or county  
10 of this State, other than a school district, or of the Port Authority of  
11 New York **[Authority]** and New Jersey or other instrumentality of 2  
12 or more States or of the United States, or loans to any such other  
13 State, or to such subdivision, or instrumentality, and, unless the  
14 commissioner, acting pursuant to subsection H of this section  
15 prescribed otherwise by regulation, loans and extensions of credit may  
16 be made to, and investments may be made in the obligations of any  
17 such other State, or of any such subdivision or instrumentality in  
18 excess of **[10%]** 15 % but not in excess of 25% of the capital funds  
19 of a bank or savings bank.

20 F. Except as the commissioner may otherwise prescribe from time  
21 to time by regulation promulgated pursuant to subsection H of this  
22 section, the total amount of investment securities of any one person  
23 held by a bank or savings bank for its own account, other than  
24 investments specified in paragraphs (1) and (2) of section 61 and  
25 subsections D and E of this section, shall not exceed **[10%]** 15 % of  
26 the capital funds of the bank or savings bank.

27 G. In determining whether the total **[liabilities of]** loans and  
28 extensions of credit made to any person are within the limitations  
29 imposed by this article, a bank or savings bank and its directors,  
30 officers and employees may rely upon, and be protected in relying  
31 upon, the written statements or representations of such person, made  
32 to induce such bank or savings bank to permit such **[liabilities]** loans  
33 and extensions of credit to be **[incurred]** made.

34 H. The commissioner may, from time to time, make, amend and  
35 repeal regulations (1) imposing a limitation, expressed in terms of a  
36 percentage of capital funds, upon **[liabilities]** loans and extensions of  
37 credit secured as specified in subsection C of this section, and (2)  
38 decreasing, increasing, or removing entirely the limitations on  
39 **[liability]** loans and extensions of credit imposed by this article upon  
40 the **[liabilities]** loans and extensions of credit, obligations and  
41 investments specified in subsections A, B, D, E and F of this section.  
42 Regulations made pursuant to this section shall be directed toward  
43 creating and maintaining substantial equality between State banks and  
44 savings banks and national banks, to the end that no class or group of  
45 banks or savings banks shall have any substantial competitive

1 advantage over another. When not defined in this article or in  
2 regulations promulgated by the commissioner, terms used in this  
3 article shall be construed in a manner consistent with their definition  
4 by the Comptroller of the Currency, or any other appropriate federal  
5 regulatory agency.<sup>2</sup>

6 (cf: P.L.1969, c.244, s.4)

7

8 <sup>2</sup>12. Section 63 of P.L.1948, c.67 (C.17:9A-63) is amended to read  
9 as follows:

10 63. Exempt transactions.

11 A. A bank or savings bank shall not be in violation of this article  
12 if the **【total liabilities of】** loans and extensions of credit to a person  
13 incurred under any prior law repealed or superseded by this act exceed  
14 the limitations imposed by this article.

15 B. A bank or savings bank shall not be in violation of this article if,  
16 at any time when a bank or savings bank makes a loan or extension of  
17 credit to a person **【incurs or incurred a liability to such bank】**, the  
18 total **【liabilities of】** loans and extensions of credit to such person,  
19 including the **【liability】** loan or extension of credit then **【incurred】**  
20 made, do not or did not exceed the limitations imposed by this article,  
21 notwithstanding that, subsequent to the **【incurring】** making of any  
22 such **【liability】** loan or extension of credit, circumstances other than  
23 the **【incurring】** making of an additional **【liability】** loan or extension  
24 of credit, cause the total **【liabilities of】** loans and extensions of credit  
25 to such person to exceed the limitations imposed by this article.

26 C. Notwithstanding any provision of this article, a bank or savings  
27 bank may, with the prior approval of the commissioner, do any act  
28 necessary to preserve or protect any loan or extension of credit,  
29 obligation or investment held by it, or any security for such loan or  
30 extension of credit or obligation, even though such act causes the  
31 total **【liabilities of】** loans and extensions of credit to any person to  
32 exceed the limitations imposed by this article; provided, that in no  
33 case shall the commissioner approve any act pursuant to this  
34 subsection which would cause the total **【liabilities of】** loans and  
35 extensions of credit to any person to exceed the limitations imposed  
36 by this article by more than fifty **【per centum】** percent of such  
37 limitations.<sup>2</sup>

38 (cf: P.L.1953, c.141, s.3)

39

40 <sup>2</sup>**【10.】** <sup>2</sup>13. Section 110 of P.L.1948, c.67 (C.17:9A-110) is  
41 amended to read as follows:

42 110. Directors; other committees. The by-laws of a bank may  
43 provide for other committees of the board of directors in addition to  
44 the committees elsewhere in this act authorized. Not less than a  
45 majority of the members of any such other committee shall be

1 directors. Any or all of the remaining members of any such other  
2 committee may be directors or may be officers of the bank who are  
3 not directors. ~~【No such other committee shall be empowered to do~~  
4 ~~any act for the bank without the approval of such act by the board of~~  
5 ~~directors.】~~ Each committee shall have the authority to take any action  
6 on behalf of the board that may be delegated to the committee in the  
7 by-laws or by resolution of the board. <sup>2</sup>The minutes of each  
8 committee authorized to take action on behalf of the board of directors  
9 pursuant to this section shall be presented to the board at its next  
10 meeting following the meeting of the committee at which such action  
11 was taken.<sup>2</sup>

12 (cf: P.L.1952, c.56, s.1)

13

14 <sup>2</sup>~~【11.】~~ 14. <sup>2</sup> Section 3 of P.L.1990, c.69 (C.17:16F-17) is amended  
15 to read as follows:

16 3. If the servicing of a mortgage loan for which a mortgage escrow  
17 account has been established is sold, assigned or transferred to a  
18 purchasing servicing organization:

19 a. ~~【The selling servicing organization shall notify the mortgagor~~  
20 ~~of the sale, assignment or transfer not more than 45 days after the~~  
21 ~~actual date of the sale, assignment or transfer or not less than 10 days~~  
22 ~~prior to the date the next payment of property taxes is due, whichever~~  
23 ~~is earlier. The notification shall contain the name, address and~~  
24 ~~telephone number of the purchasing servicing organization and any~~  
25 ~~special instructions for the handling of payments during the conversion~~  
26 ~~period.】~~~~(Deleted by amendment, P.L. ., c. .)~~

27 b. The selling servicing organization shall notify the tax collector  
28 of the taxing district in which the mortgaged property is located of the  
29 sale, assignment or transfer not more than 45 days after the actual date  
30 of the sale, assignment or transfer or not less than 10 days before the  
31 date the next payment of property taxes is due, whichever is earlier.  
32 The notification provided to the tax collector shall be on a form  
33 approved by the commissioner. The selling servicing organization shall  
34 also forward to the purchasing servicing organization the tax bill and  
35 stubs for the property securing the mortgage loan.

36 c. ~~【The purchasing servicing organization shall issue corrected~~  
37 ~~coupon or payment books, if such are used, not later than 20 days~~  
38 ~~after the first mortgage escrow payment to the purchasing servicing~~  
39 ~~organization is due and shall provide the mortgagor with the name,~~  
40 ~~address and telephone number of the purchasing servicing organization~~  
41 ~~and information regarding the purchasing servicing organization's~~  
42 ~~procedures for responding to questions from a mortgagor.】~~~~【(Deleted~~  
43 ~~by amendment, P.L. ., c. .)】~~ The purchasing servicing  
44 organization shall issue corrected coupon or payment books, if such  
45 are used, not later than 20 days after the first mortgage escrow  
46 payment to the purchasing servicing organization is due.<sup>1</sup>

1 d. The purchasing servicing organization shall notify the tax  
2 collector of the taxing district in which the mortgaged property is  
3 located of the sale, assignment or transfer of the servicing of the  
4 mortgage loan not later than 45 days after the actual date of the sale,  
5 assignment or transfer or not less than 10 days prior to the date the  
6 next payment of property taxes is due, whichever is earlier. This  
7 notice shall include the purchasing servicing organization's procedure  
8 for responding to questions regarding a mortgage escrow account it  
9 manages.

10 e. A mortgagee or servicing organization which has been  
11 authorized to receive the original tax bill from the tax collector of the  
12 taxing district in which the mortgagor's property is located pursuant  
13 to R.S.54:4-64, may request the tax collector to send the original tax  
14 bill to its property tax processing organization. This request shall be  
15 made in writing on a form approved by the commissioner.

16 For the purposes of this section, "the date the next payment of  
17 property taxes is due" means either the first day of February, May,  
18 August or November, as applicable, and shall not include any grace  
19 period.

20 For the purposes of this section, the terms, "purchasing servicing  
21 organization" and "selling servicing organization" shall not include the  
22 Government National Mortgage Association, the Federal National  
23 Mortgage Association, the Federal Home Loan Mortgage Corporation,  
24 the Resolution Trust Corporation, or the Federal Deposit Insurance  
25 Corporation, if the assignment, sale, or transfer of the servicing of the  
26 mortgage loan is preceded by:

- 27 (1) Termination of the contract for servicing the loan for cause;  
28 (2) Commencement of proceedings for bankruptcy of the servicer;  
29 or  
30 (3) Commencement of proceedings by the Federal Deposit  
31 Insurance Corporation or the Resolution Trust Corporation for  
32 conservatorship or receivership of the servicer, or an entity by which  
33 the servicer is owned or controlled.

34 (cf: P.L.1990, c.69, s.3)

35

36 <sup>2</sup>[12.] ~~15.~~<sup>2</sup> Section 1 of P.L.1985, c.370 (C.17:16L-1) is amended  
37 to read as follows:

38 1. As used in this act:

39 a. "Banking institution" means any State or federally chartered  
40 bank, savings bank, or savings and loan association, including a  
41 federally chartered savings bank;

42 b. "Commissioner" means the Commissioner of Banking <sup>2</sup>and  
43 Insurance<sup>2</sup>;

44 c. "Deposit account" means an account in a banking institution  
45 used by the account holder for personal or family purposes, but does  
46 not include an account as defined in the federal "Expedited Funds

1 Availability Act.” 12 U.S.C. §4001 et seq., which account is subject to  
2 the disclosure of funds availability policy requirements as set forth in  
3 12 U.S.C. §4004.

4 (cf: P.L.1985, c.370, s.1)

5

6 <sup>2</sup>[13.] ~~16.~~<sup>2</sup> Section 3 of P.L.1991, c.210 (C.17:16N-3) is amended  
7 to read as follows:

8 3. a. Every depository institution that maintains regular checking  
9 accounts in this State shall make available to consumers a New Jersey  
10 Consumer Checking Account at all offices of that depository  
11 institution where regular checking accounts are offered or available.  
12 A New Jersey Consumer Checking Account shall be used primarily for  
13 personal, family, or household purposes. No depository institution  
14 shall be required to offer a New Jersey Consumer Checking Account  
15 at a cost which is below its actual cost to provide such an account.  
16 The calculation made by a depository institution of the actual cost of  
17 providing a New Jersey Consumer Checking Account shall be  
18 determinative in the absence of mathematical error or a request from  
19 the commissioner for other data and information deemed relevant or  
20 appropriate for evaluating the actual cost of providing a New Jersey  
21 Consumer Checking Account. New Jersey Consumer Checking  
22 Accounts shall contain the features specified in subsection c. of this  
23 section or be an account the features and terms of which have been  
24 approved by the commissioner pursuant to subsection d. of this  
25 section.

26 b. An applicant for a New Jersey Consumer Checking Account  
27 shall provide the depository institution with the same information an  
28 applicant for a regular checking account is required to provide at that  
29 depository institution.

30 c. The commissioner shall establish by regulation pursuant to the  
31 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
32 seq.), all of the following features of a New Jersey Consumer  
33 Checking Account which may be stated in terms of a range of options  
34 rather than a specific number:

35 (1) the initial deposit amount, if any, necessary to open a New  
36 Jersey Consumer Checking Account;

37 (2) the maximum amount, if any, permitted to be required by a  
38 depository institution as a minimum balance necessary to maintain the  
39 account;

40 (3) the number of checks, if any, that may be used within a periodic  
41 cycle without charge to withdraw funds from the account;

42 (4) the number of other withdrawals, if any, that may be made by  
43 a method other than check within a periodic cycle without charge;

44 (5) a maximum amount, if any, that may be charged per periodic  
45 cycle for maintaining the account;

46 (6) the maximum number of deposits, if any, that may be made in

1 a periodic cycle without charge; and

2 (7) a maximum amount that may be charged per transaction in  
3 excess of the number permitted under paragraphs (3), (4) and (6) of  
4 this subsection.

5 d. (1) Notwithstanding the provisions of subsection c. of this  
6 section, a depository institution may establish a New Jersey Consumer  
7 Checking Account by <sup>3</sup>[:

8 (a) providing the terms and conditions that would qualify the  
9 account as a "lifeline account" pursuant to 12 U.S.C. §1834; or

10 (b)]<sup>3</sup> submitting an account to the commissioner for approval as  
11 a New Jersey Consumer Checking Account by providing the  
12 commissioner information which details the features and terms of the  
13 account.

14 (2) The commissioner shall approve or reject ~~the~~ <sup>3</sup>[~~an~~] ~~the~~<sup>3</sup>  
15 ~~account~~ <sup>3</sup>[~~submitted to the commissioner pursuant to subparagraph (b)~~  
16 ~~of paragraph (1) of this subsection d.]<sup>3</sup> as a New Jersey Consumer  
17 Checking Account within 30 business days of receipt of the  
18 information from a depository institution.~~

19 (3) If the commissioner does not approve an account <sup>3</sup>[~~submitted~~  
20 ~~to the commissioner pursuant to subparagraph (b) of paragraph (1) of~~  
21 ~~this subsection d.]<sup>3</sup> as a New Jersey Consumer Checking Account,  
22 the commissioner shall provide to the depository institution, in writing,  
23 the reasons for ~~his~~ the commissioner's decision.~~

24 e. The commissioner shall, prior to promulgating regulations  
25 pursuant to subsection c. of this section or accepting any account for  
26 approval pursuant to <sup>3</sup>[~~subparagraph (b) of paragraph (1) of~~] <sup>3</sup>  
27 subsection d. of this section, review the terms and conditions of the  
28 low cost personal checking accounts currently available to consumers  
29 in this State and shall consider those terms and conditions in  
30 complying with the provisions of subsections c. and d. of this section.

31 f. The holder of a New Jersey Consumer Checking Account shall:

32 (1) have no less access to mail or electronic banking services,  
33 including direct deposits to the account by payors, than that offered to  
34 holders of regular checking accounts at that depository institution;

35 (2) not be assessed any fee in excess of the usual fee or charge  
36 made by the depository institution to its regular checking account  
37 holders.

38 g. A depository institution shall provide a periodic account  
39 statement to every holder of a New Jersey Consumer Checking  
40 Account.

41 h. A depository institution may close a New Jersey Consumer  
42 Checking Account under the same standards for fraudulent activity and  
43 overdrafts as it applies to holders of regular checking accounts at the  
44 depository institution or close or refuse to open a New Jersey  
45 Consumer Checking Account if the consumer:

1 (1) has a regular checking account or another New Jersey  
2 Consumer Checking Account in that depository institution or in any  
3 other depository institution; or

4 (2) makes an intentional material misrepresentation in the  
5 information provided to the depository institution to open the account.

6 i. A depository institution shall not require any holder of a New  
7 Jersey Consumer Checking Account to have any other account at that  
8 or any other depository institution or have a credit card issued by it or  
9 any other depository institution as a condition to opening or  
10 maintaining a New Jersey Consumer Checking Account.

11 (cf: P.L.1991, c.210, s.3)

12

13 <sup>2</sup>[14.] 17. <sup>2</sup> R.S.46:30B-95 is amended to read as follows:

14 46:30B-95. Maintaining records; generally. Every holder required  
15 to file a report under Article 17 of this chapter, as to any property for  
16 which it has obtained the last known address of the owner, shall  
17 maintain a record of the name and last known address of the owner for  
18 **[10]** five years after the property becomes reportable, except to the  
19 extent that a shorter time is provided in R.S.46:30B-96 or by rule of  
20 the administrator.

21 (cf: R.S.46:30B-95)

22

23 <sup>2</sup>[15.] 18. <sup>2</sup> Section 3 of P.L.1963, c.177 (46:38-15) is amended  
24 to read as follows:

25 3. An adult may, during his lifetime, make a gift of a security, a life  
26 insurance or endowment policy, annuity contract, tangible personal  
27 property, interest in a partnership or limited partnership or money to  
28 a minor under this act:

29 (a) If the subject of the gift is a security in registered form, by  
30 registering it in the name of a person eligible to be custodian, or a  
31 trust company, followed by substantially the following language: "as  
32 custodian for ..... (name of minor) under the New Jersey  
33 Uniform Gifts to Minors Act";

34 (b) If the subject of the gift is a security not in registered form, by  
35 delivering it to a person eligible to be custodian, other than the donor,  
36 or a trust company, accompanied by a statement of gift in substantially  
37 the following language, signed by the donor and the custodian:

38

39 "GIFT UNDER THE NEW JERSEY UNIFORM GIFTS TO  
40 MINORS ACT

41 I, ..... hereby deliver to .....,  
42 (name of donor) (name of custodian)

43 as custodian under the New Jersey Uniform Gifts to Minors Act,  
44 for....., the following security:

45 (name of minor)

1 .....  
2 (description of security)  
3 Dated: .....  
4 (signature of donor)  
5 ....., as custodian for said .....  
6 (name of custodian) (name of minor)  
7 hereby acknowledges receipt of the above described security under the  
8 New Jersey Uniform Gifts to Minors Act.  
9 Dated:.....  
10 (signature of custodian)"  
11 (c) If the subject of the gift is money, by paying or delivering it to  
12 a broker or a bank for credit to an account in the name of a person  
13 eligible to be custodian, followed by substantially the following  
14 language: "as custodian for .....  
15 (name of minor)  
16 under the New Jersey Uniform Gifts to Minors Act."  
17 (d) If the subject of the gift is a life insurance or endowment  
18 policy or an annuity contract, by causing the ownership of the policy  
19 or contract to be registered with the issuing insurance company in the  
20 name of the custodian or in the name of an adult member of the  
21 minor's family or in the name of a guardian of the minor or any bank  
22 or trust company, followed by the words "custodian for  
23 ..... under the New Jersey Uniform Gifts to Minors  
24 (name of minor)  
25 Act," and such policy of life insurance or endowment policy or annuity  
26 contract shall be delivered to the person in whose name it is thus  
27 registered as custodian. If the policy or contract is registered in the  
28 name of the donor, as custodian, such registration shall of itself  
29 constitute the delivery required by this act.  
30 (e) If the subject of the gift is an interest in tangible personal  
31 property, by causing the ownership of the property to be transferred  
32 by any appropriate written document to the custodian in his own name,  
33 followed by substantially the following language: "as custodian for  
34 ..... under the New Jersey Uniform Gifts to Minors Act."  
35 (name of minor)  
36 (f) If the subject of the gift is an interest in a partnership or a  
37 limited partnership, by delivering an assignment of the interest to the  
38 custodian in his own name, followed by substantially the following  
39 language: "as custodian for .....under the New Jersey  
40 (name of minor)  
41 Uniform Gifts to Minors Act," and by notifying in writing the other  
42 partner or partners in the case of a partnership or the other general  
43 partner or partners in the case of a limited partnership and the donee  
44 of the gift. In the case in which the assignment is made to the donor in  
45 his own name, notification to the other partner or partners in the case  
46 of a partnership or to the other general partner or partners in the case



1 of a limited partnership shall constitute the delivery required by this  
2 subsection.

3 (cf: P.L.1981, c.377, s.2)

4

5 <sup>2</sup>[16.] ~~19.~~<sup>2</sup> Section 15 of P.L.1963, c.177 (C.46:38-27) is  
6 amended to read as follows:

7 15. (a) The custodian shall collect, hold, manage, invest and  
8 reinvest the custodial property.

9 (b) The custodian shall pay over to the minor for expenditure by  
10 him, or expend on behalf of the minor, so much of or all the custodial  
11 property as the custodian deems advisable for the support,  
12 maintenance, education, general use and benefit of the minor in the  
13 manner, at the time or times, and to the extent that the custodian in his  
14 absolute discretion deems suitable and proper, with or without court  
15 order, with or without regard to the duty or ability of himself or of any  
16 other person to support the minor, and with or without regard to any  
17 other funds, income or property of the minor which may be available  
18 for any such purpose.

19 (c) The court, on the application of a parent or guardian of the  
20 minor, or on the application of the minor if he has attained the age of  
21 14 years, may order the custodian to pay over to the minor for  
22 expenditure by him, or to expend on behalf of the minor, so much of  
23 or all the custodial property as is necessary for the minor's support,  
24 maintenance, education, general use and benefit.

25 (d) To the extent that the custodial property is not so expended,  
26 the custodian shall deliver or pay it over to the minor when he attains  
27 21 years of age or, if the minor dies before attaining 21 years of age,  
28 the custodian shall thereupon deliver or pay it over to the estate of the  
29 minor. The donor at the time the gift is made may expressly direct  
30 that the custodianship be terminated and the custodial property be paid  
31 over and transferred to the minor at any time after the minor attains  
32 the age of 18 years.

33 (e) The custodian, in investing and reinvesting the custodial  
34 property, shall act as would a prudent man of discretion and  
35 intelligence who is seeking a reasonable income and the preservation  
36 of his capital, except that he may, in his discretion and without liability  
37 to the minor or his estate, retain a security given to the minor in a  
38 manner prescribed in this act or hold money so given in an account in  
39 the bank to which it was paid or delivered by the donor.

40 (f) (Deleted by amendment.)

41 (g) The custodian may sell, exchange, convert or otherwise dispose  
42 of custodial property in the manner, at the time or times, for the price  
43 or prices and upon the terms he deems advisable. He may vote a  
44 security which is custodial property in person or by general or limited  
45 proxy. He may consent, directly or through a committee or other  
46 agent, to the reorganization, consolidation, merger, dissolution or

1 liquidation of an issuer of a security which is custodial property, and  
 2 to the sale, lease, pledge or mortgage of any property by or to such an  
 3 issuer, and to any other action by such an issuer. He may execute and  
 4 deliver written instruments which he deems advisable to carry out any  
 5 of his powers as custodian.

6 (h) The custodian shall keep all custodial property separate and  
 7 distinct from his own property in such a manner as to identify it  
 8 clearly as custodial property. He shall register each security which is  
 9 custodial property and in registered form in his name, or in the name  
 10 of a trust company, followed by substantially the following language:  
 11 "as custodian for ..... under the New Jersey Uniform  
 12 (name of minor)

13 Gifts to Minors Act," He shall hold all money which is custodial  
 14 property in an account with a broker or in a bank in his name followed  
 15 by substantially the following language: "as custodian for  
 16 .....under the New Jersey Uniform Gifts to Minors Act."  
 17 (name of minor)

18 (i) The custodian shall keep records of all transactions with respect  
 19 to the custodial property and make them available for inspection at  
 20 reasonable intervals by a parent, guardian or legal representative of the  
 21 minor, or by the minor if he is 14 years of age or more.

22 (j) In addition to the powers given in this act, a custodian has all the  
 23 powers with respect to the custodial property which a guardian of the  
 24 estate would have with respect to property not held as custodial  
 25 property.

26 (k) If the subject of the gift is a life insurance or endowment policy  
 27 or annuity contract, the custodian:

28 (1) in his capacity as custodian, has all the incidents of ownership  
 29 in the policy or contract to the same extent as if he were the owner,  
 30 except that the designated beneficiary of any policy or contract on the  
 31 life of the minor shall be the minor's estate and the designated  
 32 beneficiary of any policy or contract on the life of a person other than  
 33 the minor shall be the custodian as custodian for the minor for whom  
 34 he is acting; and

35 (2) may pay premiums on the policy or contract out of the custodial  
 36 property.

37 (l) The custodian may, in his discretion, terminate the custodianship  
 38 at any time after the minor has attained the age of 18 years, but the  
 39 power shall not be exercised by the custodian prior to a termination  
 40 age fixed by the donor as provided in subsection (c) of this section.  
 41 (cf: P.L.1981, c.377, s.13)

42

43 <sup>2</sup>[17.] 20.<sup>2</sup> Section 20 of P.L.1963, c.177 (C.46:38-32) is  
 44 amended to read as follows:

45 20. Upon the death of a custodian or renunciation of a custodian  
 46 designee for whom a successor custodian has been designated or

1 provided by law, the certificate of death, a written renunciation or a  
2 written recital of the renunciation, as the case may be, shall be full  
3 warrant to all persons for immediate transfer of the custodial property  
4 to the successor if the minor is then under 21 years of age. The  
5 successor shall cause each security which is custodial property and in  
6 registered form to be registered, and each account with a broker or in  
7 a bank to be carried, in the name of the successor custodian , or a trust  
8 company, followed by substantially the following language: "as  
9 custodian for ..... under the New Jersey Uniform Gifts to  
10 (name of minor)  
11 Minors Act"; and shall cause each such security and all other custodial  
12 property to be delivered to him together with any additional  
13 instruments required for the transfer thereof.

14 (cf: P.L.1963, c.177, s.20)

15

16 <sup>2</sup>[18.] <sup>2</sup>21.<sup>2</sup> (New section) a. For the purposes of this section:

17 "Financial institution" means an entity chartered or licensed by the  
18 United States of America or by any state to accept deposits of funds  
19 or make loans.

20 "Governmental unit" means the United States of America, the State  
21 of New Jersey and all its counties, municipalities and school districts,  
22 and any authority or other entity established by any of those  
23 governmental units to fulfill a governmental function.

24 b. A person, other than a governmental unit, who is a party to an  
25 action and is seeking discovery or production of evidence as permitted  
26 by and pursuant to the Rules Governing the Courts of the State of  
27 New Jersey or other State authority or the Federal Rules of Civil  
28 Procedure requiring or requesting access to financial records  
29 pertaining to a customer of the financial institution shall pay to the  
30 financial institution that assembles or provides the financial records a  
31 fee for reimbursement of reasonably necessary costs, directly incurred,  
32 as follows:

33 (1) Reimbursement of search and processing costs, including the  
34 total amount of personnel direct time incurred in locating and  
35 retrieving, reproducing, packaging and preparing financial records for  
36 shipment, costs for analysis of material or for managerial or legal  
37 advise, expertise, research, or time spent for any of these activities.  
38 Search and processing costs may include the actual cost of extracting  
39 information stored by computer in the format in which it is normally  
40 produced, based on computer time and necessary supplies.

41 (2) Reimbursement for reproduction costs incurred in making  
42 copies of documents required or requested. The rate for reproduction  
43 costs for making copies of required or requested documents shall be  
44 the institution's usual rate charged to its customers for reproducing  
45 copies, including copies produced by reader-printer reproduction  
46 processes. Photographs, films, and other materials shall be reimbursed

1 at actual cost.

2 (3) Reimbursement of transportation costs, including transport of  
3 personnel to locate and retrieve the information or material required  
4 or requested and including all other reasonably necessary costs to  
5 convey the information or material to the place of examination.

6 c. Payment for reasonably necessary, directly incurred costs to  
7 financial institutions shall be limited to material required or requested.

8 d. Payment shall be made only for costs that are both directly  
9 incurred and reasonably necessary, and search and processing,  
10 reproduction, and transportation costs shall be considered separately.

11 e. A financial institution may require an advance payment, based on  
12 the institution's good faith estimate or the charges permitted by this  
13 act. Any payment in excess of the actual charge shall be promptly  
14 refunded by the financial institution.

15 f. If a party to a lawsuit making the request for materials or  
16 information withdraws the legal process or formal written request, or  
17 if the customer revokes the authorization for release of materials or  
18 information, or if the legal process or request has been successfully  
19 challenged by the customer, the party shall promptly notify the  
20 financial institution of these facts. The party shall be responsible only  
21 for the costs directly incurred prior to the time that the financial  
22 institution receives this notice.

23 g. A financial institution is not entitled to reimbursement under this  
24 section for costs incurred in assembling or providing financial records  
25 provided as an incident to perfecting a security interest, proving a  
26 claim in bankruptcy, or otherwise collecting on a debt owing to the  
27 financial institution itself or to the institution in its role as a fiduciary.

28

29 <sup>2</sup>[19.] 22.<sup>2</sup> (New section) A depository institution which is  
30 presented with an execution on an account pursuant to N.J.S.2A:17-57  
31 et seq., may deduct from the amount levied and retain for itself as  
32 compensation for its expenses and services, a service fee, provided  
33 that the deposit agreement between the depository institution and the  
34 depositor provides for such a fee. The portion of any service fee  
35 which has priority over an execution pursuant to this section shall not  
36 exceed \$60 or such greater or lesser amount as the Commissioner of  
37 Banking <sup>2</sup>and Insurance<sup>2</sup> may establish from time to time by  
38 regulation.

39 Nothing herein shall <sup>2</sup>[effect] affect<sup>2</sup> the validity or priority of any  
40 lien or other right of set-off that the depository institution may have  
41 with respect to the account which is levied upon.

42 For purposes of this section:

43 "Account" means a checking account, savings account or other  
44 deposit account of a type which is insured by the Federal Deposit  
45 Insurance Corporation.

46 "Depository institution" means any state or federally chartered

1 bank, savings bank, savings and loan association or credit union which  
2 accepts deposits of funds.

3  
4 <sup>2</sup>[20.] <sup>2</sup>23.<sup>2</sup> (New section) A bank <sup>2</sup>or savings bank<sup>2</sup> may originate  
5 or acquire mortgage loans secured by a mortgage constituting a lien  
6 upon real property or upon a lease of the fee of real property, so long  
7 as the bank observes prudent banking practices, including amortization  
8 of the loans. The value of any mortgage loan shall not exceed 90 per  
9 cent of the appraised value of the mortgaged property, except for a  
10 mortgage loan that is less than \$100,000 or as permitted by the  
11 Commissioner of Banking <sup>2</sup>and Insurance<sup>2</sup> by regulation. A bank <sup>2</sup>or  
12 savings bank<sup>2</sup> shall obtain an appropriate evaluation of the real  
13 property collateral that is consistent with safe and sound banking  
14 practices.

15  
16 <sup>2</sup>[21.] <sup>2</sup>24.<sup>2</sup> (New section) Any bank <sup>2</sup>or savings bank<sup>2</sup> that is in  
17 compliance with Regulation O of the Board of Governors of the  
18 Federal Reserve System, 12 C.F.R. §215 et seq., is deemed to be in  
19 compliance with the provisions of sections 71 through 75 of P.L.1948,  
20 c.47 (C.17:9A-71 through 17:9A-75).

21  
22 <sup>2</sup>[<sup>1</sup>22.] <sup>2</sup>25.<sup>2</sup> (New section) Any bank <sup>2</sup>or savings bank<sup>2</sup> that is  
23 in compliance with the federal "Depository Institution Management  
24 Interlocks Act." 12 U.S.C. §3201 et seq. and the federal regulations  
25 effectuating that act. 12 C.F.R. §348. is deemed to be in compliance  
26 with the provisions of sections 1 through 6 of P.L.1975. c.265  
27 (17:16E-1 et seq.).<sup>1</sup>

28  
29 <sup>2</sup>26. (New section) An association may originate or acquire  
30 mortgage loans secured by a mortgage constituting a lien upon real  
31 property or upon a lease of the fee of real property, so long as the  
32 association observes prudent lending practices, including amortization  
33 of the loans. The value of any mortgage loan shall not exceed 90 per  
34 cent of the appraised value of the mortgaged property, except for a  
35 mortgage loan that is less than \$100,000 or as permitted by the  
36 Commissioner of Banking and Insurance by regulation. An association  
37 shall obtain an appropriate evaluation of the real property collateral  
38 that is consistent with safe and sound banking practices.<sup>2</sup>

39  
40 <sup>2</sup>27. (New section) Any association that is in compliance with the  
41 federal "Depository Institution Management Interlocks Act." 12  
42 U.S.C. §3201 et seq. and the federal regulations effectuating that act.  
43 12 C.F.R. §348. is deemed to be in compliance with the provisions of  
44 sections 1 through 6 of P.L.1975. c.265 (17:16E-1 et seq.).<sup>2</sup>

45  
46 <sup>2</sup>28. Section 155 of P.L.1963, c.144 (C.17:12B-155) is amended

1 to read as follows:

2 155. Other loans may be made as follows:

3 A. Account loans. Loans secured by a pledge of a member's  
4 savings account. No such loan shall exceed the withdrawal value of  
5 the pledged account. Interest on such loans shall not be charged at a  
6 rate in excess of the maximum permitted under the provisions of R.S.  
7 31:1-1 unless a higher rate is required by any applicable Federal  
8 regulation that establishes minimum rates that must be charged on  
9 loans secured by savings accounts; in which event, the interest  
10 charged shall not be greater than that specified by such Federal  
11 regulation.

12 B. Purchase of loans. An association may purchase any mortgage  
13 loan, property repair, alteration, improvement or rehabilitation loan,  
14 or any other loan which an association is authorized to make.

15 C. ~~Loans secured by a mortgage upon a lease of the fee of real~~  
16 ~~property. Any association may invest in any obligation secured by a~~  
17 ~~mortgage on a lease of the fee of real property. The term of the~~  
18 ~~leasehold interest securing such loan shall be not less than 50 years~~  
19 ~~from the date such loan is granted; otherwise, such loans shall be~~  
20 ~~made pursuant to sections 146 through 154, 167 and 168 of this act.]~~  
21 ~~(Deleted by amendment, P.L. , c. .)~~

22 D. ~~Camp meeting leaseholds. An association may invest in any~~  
23 ~~obligation secured by a first mortgage, as defined in section 11 of this~~  
24 ~~act, on any leasehold estate of real estate, in this State, of any camp~~  
25 ~~meeting association, to the extent authorized by, and subject to, the~~  
26 ~~limitations and restrictions contained in R.S. 17:2-1.]~~ ~~(Deleted by~~  
27 ~~amendment, P.L. , c. .)~~

28 E. Loans otherwise authorized. An association may make any  
29 other loan which it may be authorized to make by any law of this  
30 State.

31 F. ~~Loans on apartments or units established under the~~  
32 ~~"Horizontal Property Act" or the "Condominium Act." An~~  
33 ~~association may invest in any obligation secured by a mortgage on an~~  
34 ~~apartment which is part of a horizontal property regime established~~  
35 ~~under the "Horizontal Property Act" or upon a unit which is part of~~  
36 ~~a condominium established under the "Condominium Act." All such~~  
37 ~~loans shall be made pursuant to sections 146 through 154, 167 and~~  
38 ~~168 of this act.]~~ ~~(Deleted by amendment, P.L. , c. .)~~

39 G. Educational loans. In addition to the authority otherwise  
40 granted by law for an association to make loans guaranteed or insured  
41 in whole or in part by the United States of America or the State of  
42 New Jersey, or any instrumentality or agency of either of them, or for  
43 which a commitment to so guarantee or insure has been made, an  
44 association may make any loans so guaranteed or insured or for which  
45 a commitment to so guarantee or insure has been made where such  
46 loans are made for the purposes of financing the expenses of higher

1 education. Such loans may be made in accordance with the terms and  
2 conditions permitted by the guaranteeing or insuring authority,  
3 notwithstanding any other provisions of law limiting interest or other  
4 charges or prescribing other terms and conditions.

5 H. **Loans on building lots.** An association may invest in any  
6 obligation secured by a mortgage which is a first lien on a building lot,  
7 where it is represented by the borrower at the time the loan is made  
8 that he intends to build or have built a dwelling on the building lot for  
9 his own use and occupancy. The amount of such loan shall not  
10 exceed 80% of the value of the real estate as found by appraisal at the  
11 time the loan is granted and shall be a direct reduction loan as defined  
12 in section 5 of this act, which shall require periodic payments  
13 sufficient to pay the principal and interest on the loan in full over a  
14 period of 10 years or less. ~~(Deleted by amendment, P.L. , c. )~~

15 I. **Secondary mortgage loans.** ~~【An association may make or~~  
16 ~~invest in any secondary mortgage loan as defined in section 5 of~~  
17 ~~P.L.1963, c.144 (C.17:12B-5).】 Secondary mortgage loans made~~  
18 ~~pursuant to section <sup>3</sup>[23] 26<sup>3</sup> of P.L. , c. (C. )~~(pending  
19 ~~before the Legislature as this bill~~) shall be repayable in installments  
20 under the same terms and conditions as provided for secondary  
21 mortgage loan licensees under the "Secondary Mortgage Loan Act,"  
22 P.L.1970, c.205 (C.17:11A-34 et seq.) only with respect to maximum  
23 annual percentage rate of interest. The Commissioner of Banking and  
24 Insurance shall have the power, in relation to a "secondary mortgage  
25 loan," to adopt, amend, alter or rescind regulations, the requirements  
26 of which, in **his** ~~the commissioner's~~ judgment, are necessary for the  
27 implementation of this subsection.

28 J. **Mobile homes.** An association may invest in mobile or  
29 manufactured home chattel paper by making or by buying loans or  
30 installment sales contracts on mobile or manufactured homes.

31 K. **Consumer loans.**

32 (1) An association may invest in or make installment loans upon the  
33 same terms and conditions prescribed for banks in accordance with  
34 Article 12 of the "Banking Act of 1948," P.L.1948, c.67 ~~【(C.17:9A-1~~  
35 ~~et seq.)】 (C.17:9A-53 et seq.),~~ subject to the limitation established in  
36 subsection M. of this section.

37 (2) In addition, subject to the limitation established in subsection M.  
38 of this section, an association may invest in or make secured or  
39 unsecured loans for personal, family, or household purposes to the  
40 extent and under the conditions permitted by the rules and regulations  
41 adopted by the commissioner from time to time. The rate of interest  
42 on such loans shall not be in excess of the rate of interest provided for  
43 in section 160 of P.L.1963, c.144 (C.17:12B-160) or in excess of any  
44 rate of interest for such loans as may be otherwise authorized by law.  
45 The commissioner shall promulgate such rules and regulations in  
46 substantial conformity with similar rules and regulations of the

1 Federal Home Loan Bank Board.

2 L. Advance loans. An association may make advance loans upon  
3 the same terms and conditions prescribed for banks in accordance  
4 with **[Article 12A of the "Banking Act of 1948," P.L.1948, c. 67**  
5 **(C.17:9A-1 et seq.)]** "The Advance Loan Law of 1968." P.L.1959,  
6 c.91 (C.17:9A-59.1 et seq.).

7 M. Limitations on loans and investments. Loans or investments  
8 in the following subsections shall not exceed, in the aggregate for each  
9 subsection, 20% of the assets of the association, provided that the  
10 commissioner may, by regulation, establish an amount in excess of  
11 20% for each subsection if such excess amount is in conformity with  
12 Federal law or rule or regulation of the Federal Home Loan Bank  
13 Board:

14 (1) **[Loan secured by a first lien on real estate which are solely for**  
15 **business or commercial purposes, as authorized by this act;]** (Deleted  
16 by amendment, P.L. . . c. . . .)

17 (2) Secured or unsecured loans for personal, family, or household  
18 purposes, and commercial paper and corporate debt securities;  
19 provided, however, that no percentage of assets limitation shall apply  
20 to the issuance of credit cards or the extension of credit therewith, the  
21 investment in property improvement loans as defined in section 158  
22 of P.L.1963, c.144 (C.17:12B-158), or the investment in advance  
23 loans as defined in subsection L. of this section.<sup>2</sup>

24 (cf: P.L.1981, c.101, s.12)

25

26 <sup>2</sup>29. Section 156 of P.L.1963, c.144 (C.17:12B-156) is amended  
27 to read as follows:

28 156. Investments in additional loans.

29 A. An association may make additional loans or advances for any  
30 purpose expressly or impliedly reserved or provided for in any bond,  
31 mortgage or other obligation held by or hereafter acquired by any such  
32 association subject to the provisions of subsection D **[subdivisions**  
33 **(1), (5), (6) and (7)]** of this section, otherwise;

34 B. An association may make additional loans to borrowing  
35 members for the purpose of repairs, alterations, or improvements  
36 already made or to be made upon real estate owned by such borrowing  
37 member, subject to the conditions and limitations of subsection D of  
38 this section.

39 C. An association may make additional loans to borrowing  
40 members for the purpose of paying the cost of insurance upon the life  
41 of such borrowing member. Such policy of insurance may also  
42 include health, accident or disability features. The proceeds of such  
43 a policy of insurance shall be applied in accordance with the terms and  
44 conditions contained therein; provided, however, the amount of such  
45 insurance shall not exceed the amount loaned on the mortgage lien  
46 held by the association. Any additional loan made under this



1 subsection shall be made pursuant to the conditions and limitations  
2 contained in subsection D of this section.

3 D. Any additional loan to borrowing members made pursuant to  
4 the provisions of ~~subsections B or C of~~ this section shall be made  
5 subject to the following conditions and limitations:

6 (1) The real estate securing such an additional loan shall be real  
7 estate upon which the association already holds a mortgage lien.

8 (2) ~~【If the mortgage lien already held by the association secures the  
9 payment of a direct reduction loan, such additional loan shall not  
10 exceed the sum of \$3,500.00 or the amount which has been repaid in  
11 reduction of the principal of such mortgage loan, whichever is less.】~~  
12 ~~(Deleted by amendment, P.L. , c. )~~

13 (3) ~~【If the mortgage lien already held by the association secures the  
14 payment of a sinking fund loan, such additional loan shall not exceed  
15 the sum of \$3,500.00 or the withdrawal value of the installment  
16 account which is pledged as collateral security for the payment of  
17 such sinking loan fund, whichever is less.】~~ ~~(Deleted by amendment,  
18 P.L. , c. )~~

19 (4) ~~【If the mortgage lien already held by the association secures the  
20 payment of a straight mortgage loan, such additional loan shall not  
21 exceed \$3,500.00 or an amount which when added to the balance of  
22 the straight mortgage loan, does not exceed 50% of the value of the  
23 real estate as found by appraisal at the time such additional loan is  
24 made, whichever is less. The term of any additional straight mortgage  
25 loan shall not exceed 3 years.】~~ ~~(Deleted by amendment, P.L. ,  
26 c. )~~

27 (5) Each such additional loan shall be evidenced by an obligation  
28 which shall state the terms on which such loan is made, and the  
29 amount thereof shall be added to the amount due on the association's  
30 mortgage against such real estate.

31 (6) The payment of such additional loan shall be secured by the  
32 mortgage the association already holds on such real estate.

33 (7) No search or examination of the title to the mortgage real estate  
34 shall be required.

35 All persons who acquire any rights in, or liens upon, the mortgaged  
36 real estate, subsequent to the recording of any association's mortgage,  
37 shall hold such rights and liens subject to the association's right to  
38 make such additional loans.<sup>2</sup>

39 (cf: P.L.1963, c.144, s.156)

40

41 <sup>2</sup>30. Section 168 of P.L.1963, c.144 (C.17:12B-168) is amended  
42 to read as follows:

43 168. Limitations on amounts of real estate loans and investments.

44 No State association shall ~~loan upon the security of~~, nor invest in  
45 any contract for the resale of, any one property, more than \$35,000.00  
46 or an amount equal to 2 1/2 % of its assets whichever amount is

1 ~~greater~~ make loans or extensions of credit in an amount greater than  
 2 that permitted for banks and savings banks pursuant to sections 60  
 3 through 63 of P.L.1948, c.67 (C.17:9A-60 through 17:9A-63).

4 Notwithstanding the above limits, the commissioner may adopt,  
 5 amend, alter or rescind regulations permitting associations to make  
 6 loans for a greater amount or to increase the percentage limitation  
 7 hereinabove set forth. The commissioner may give consideration to  
 8 the size of the association, its reserves and current economic  
 9 conditions in issuing such regulations. Any loans or investments  
 10 legally made under the provisions of regulations adopted under the  
 11 authority granted by this section shall be legal loans or investments if  
 12 they conform with the regulations in effect at the date of closing or  
 13 purchase of said loan or investment, notwithstanding the subsequent  
 14 amendments, alterations, rescissions or repeals of the regulations in  
 15 effect at the date of such closing or purchase.<sup>2</sup>

16 (cf: P.L.1981, c.101, s.17)

17  
 18 <sup>1</sup>~~[22.]~~ <sup>2</sup>~~[23.1]~~ <sup>3</sup>~~31.~~<sup>2</sup> The following are repealed:

19 Section 25 of P.L.1985, c.81 (C.17:3B-28);

20 Sections 64 through 70 of P.L.1948, c.67 (C.17:9A-64 through  
 21 17:9A-70);

22 Section 2 of P.L.1973, c.328 (C.17:9A-65.1);

23 <sup>2</sup>~~Section 181 of P.L.1948, c.67 (C.17:9A-181);~~<sup>2</sup>

24 <sup>1</sup>~~[P.L.1975, c.265 (C.17:16E-1et seq.);]~~<sup>1</sup>

25 <sup>2</sup>~~Sections 146 through 149 and 151 through 154 of P.L.1963, c.144~~  
 26 ~~(C.17:12B-146 through 17:12B-149 and 17:12B-151 through~~  
 27 ~~17:12B-154);~~

28 ~~Section 167 of P.L.1963, c.144 (C.17:12B-167);~~<sup>2</sup>

29 Sections 4, 5 and 6 of P.L.1977, c.1 (C.17:16F-4 through  
 30 17:16F-6);

31 Sections 2, 6, 7 and 8 of P.L.1990, c.69 (C.17:16F-16 and  
 32 17:16F-20 through 17:16F-22); and

33 P.L.1979, c.87 (C.56:11-10 through 56:11-15).

34  
 35 <sup>1</sup>~~[23.]~~ <sup>2</sup>~~[24.1]~~ <sup>3</sup>~~32.~~<sup>2</sup> This act shall take effect immediately.

36  
 37  
 38  
 39  
 40 Provides regulatory relief for banks, savings banks and savings and  
 41 loan associations.

1       22. The following are repealed:  
2       Section 25 of P.L.1985, c.81 (C.17:3B-28);  
3       Sections 64 through 70 of P.L.1948, c.67 (C.17:9A-64 through  
4 17:9A-70);  
5       Section 2 of P.L.1973, c.328 (C.17:9A-65.1);  
6       P.L.1975, c.265 (C.17:16E-1et seq.  
7       Sections 4, 5 and 6 of P.L.1977, c.1 (C.17:16F-4 through 17:16F-  
8 6);  
9       Sections 2, 6, 7 and 8 of P.L.1990, c.69 (C.17:16F-16 and 17:16F-  
10 20 through 17:16F-22); and  
11       P.L.1979, c.87 (C.56:11-10 through 56:11-15).

12  
13       23. This act shall take effect immediately.

14  
15  
16               *SPONSORS'* STATEMENT

17  
18       This bill provides for changes in current banking law to reduce  
19 duplication and conflict with federal law and to reduce unnecessary  
20 and burdensome regulations which increase the cost of doing banking  
21 business in this State.

22       More specifically, the bill makes the following changes in the  
23 "Market Rate Consumer Loan Act," P.L.1985, c.81 (C.17:3B-1 et  
24 seq.): requires any revolving credit plan that provides that the periodic  
25 rate of interest under the plan may increase or decrease, to provide in  
26 the revolving credit plan agreement that the increase or decrease will  
27 take place only in relation to a market rate index specified in the plan;  
28 places open-end home equity loans under the act by permitting real  
29 property to be used as security for loans made under the act; permits,  
30 if the agreement so provides, charging additional fees such as, but not  
31 limited to, minimum charges, annual fees, check charges, maintenance  
32 charges, and late charges; changes the requirement to provide a notice  
33 of an amendment to a revolving credit plan from 30 to 15 days in  
34 advance of the effective date of the proposed amendment, which  
35 number of days is consistent with the requirement of federal  
36 regulation; and repeals section 25 of P.L.1985, c.85 (C.17:3B-28)  
37 concerning notice of change in a periodic percentage rate and the time  
38 period before which any such change can become effective.

39       To conform State law with federal law in other respects, the bill:  
40 clarifies the factors that would prohibit a person from serving as an  
41 officer, director or employee of a bank, savings bank or bank holding  
42 company; permits the use of committees of the board of directors of  
43 a bank to take any action on behalf of the board that may be delegated  
44 to the committee in the by-laws or by resolution of the board; provides  
45 that any bank that is in compliance with Regulation O of the Board of  
46 Governors of the Federal Reserve System, 12 C.F.R. §215 et seq.,

1 concerning loans to officers, directors and principle shareholders, is  
2 deemed to be in compliance with sections 71 through 75 of P.L.1948,  
3 c.47 (C.17:9A-71 through 17:9A-75); removes certain requirements  
4 with respect to notice on the sale, assignment or transfer of the  
5 servicing of a mortgage loan which are preempted by federal law;  
6 conforms the State funds availability law with federal law and its  
7 preemptions; and provides that a depository institution that is in  
8 conformance with federal requirements with respect to "lifeline  
9 accounts" also meets the requirements of the New Jersey Consumer  
10 Checking Account.

11 The bill also amends the "New Jersey Uniform Gifts to Minors Act"  
12 to make it similar to the "New Jersey Uniform Transfers to Minors  
13 Act" by permitting trust companies to be designated as custodians with  
14 respect to the gift of a security.

15 The bill provides for the recovery of expenses incurred by  
16 depository institutions as a result of responding to: (1) a person, other  
17 than a governmental unit, who is a party to a lawsuit and is seeking  
18 discovery or production of evidence as permitted by and pursuant to  
19 the Rules Governing the Courts of the State of New Jersey or other  
20 State authority or the Federal Rules of Civil Procedure and (2) an  
21 execution on an account pursuant to N.J.S.2A:17-57 et seq.,

22

23

24

25

26 Provides regulatory relief for banks and savings banks.

# ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1829**

with committee amendments

## **STATE OF NEW JERSEY**

DATED: MAY 13, 1996

The Assembly Financial Institutions Committee reports favorably Assembly Bill No. 1829 with committee amendments.

Assembly, No. 1829, as amended, provides for changes in current banking law to reduce duplication and conflict with federal law and to reduce unnecessary and burdensome regulations which increase the cost of doing banking business in this State.

More specifically, the bill makes the following changes in the "Market Rate Consumer Loan Act," P.L.1985, c.81 (C.17:3B-1 et seq.): requires any revolving credit plan that provides that the periodic rate of interest under the plan may increase or decrease, to provide in the revolving credit plan agreement that the increase or decrease will take place only in relation to a market rate index specified in the plan; places open-end home equity loans under the act by permitting real property to be used as security for loans made under the act; permits, if the agreement so provides, charging additional fees such as, but not limited to, minimum charges, annual fees, check charges, maintenance charges, and late charges; changes the requirement to provide notice of an amendment to a revolving credit plan from 30 to 15 days in advance of the effective date of the proposed amendment, which number of days is consistent with the requirement of federal regulation; and repeals section 25 of P.L.1985, c.85 (C.17:3B-28) concerning notice of change in a periodic percentage rate and the time period before which any such change can become effective.

To conform State law with federal law in other respects, the bill: clarifies the factors that would prohibit a person from serving as an officer, director or employee of a bank, savings bank or bank holding company; permits the use of committees of the board of directors of a bank to take any action on behalf of the board that may be delegated to the committee in the by-laws or by resolution of the board; provides that any bank that is in compliance with Regulation O of the Board of Governors of the Federal Reserve System, 12 C.F.R. §215 et seq., concerning loans to officers, directors and principle shareholders, is deemed to be in compliance with sections 71 through 75 of P.L.1948, c.47 (C.17:9A-71 through 17:9A-75); removes certain requirements with respect to notice on the sale, assignment or transfer of the

servicing of a mortgage loan which are preempted by federal law; conforms the State funds availability law with federal law and its preemptions; provides that a depository institution that is in conformance with federal requirements with respect to "lifeline accounts" also meets the requirements of the New Jersey Consumer Checking Account; and provides that a bank that is in compliance with the federal "Depository Institution Management Interlocks Act," 12 U.S.C. §3201 et seq. and the federal regulations implementing that act, 12 C.F.R. §348, is deemed to be in compliance with the provisions of sections 1 through 6 of P.L.1975, c.265 (17:16E-1 et seq.).

The bill also amends the "New Jersey Uniform Gifts to Minors Act" to make it similar to the "New Jersey Uniform Transfers to Minors Act" by permitting trust companies to be designated as custodians with respect to the gift of a security.

The bill provides for the recovery of expenses incurred by depository institutions as a result of responding to: (1) a person, other than a governmental unit, who is a party to a lawsuit and is seeking discovery or production of evidence as permitted by and pursuant to the Rules Governing the Courts of the State of New Jersey or other State authority or the Federal Rules of Civil Procedure and (2) an execution on an account pursuant to N.J.S.2A:17-57 et seq.

Amendments to the bill: reinsert the requirement that, when the servicing of a mortgage loan is sold, assigned or transferred, the purchasing servicing organization is to issue corrected coupon or payment books, if such are used, not later than 20 days after the first mortgage escrow payment to the purchasing servicing organization is due; add a new section providing that a bank that is in compliance with the federal "Depository Institution Management Interlocks Act," 12 U.S.C. §3201 et seq. and the federal regulations effectuating that act, 12 C.F.R. §348, is deemed to be in compliance with the provisions of sections 1 through 6 of P.L.1975, c.265 (17:16E-1 et seq.); and eliminate the repeal of P.L.1975, c.265 (C.17:16E-1 et seq.).

# STATEMENT TO

[First Reprint]

## **ASSEMBLY, No. 1829**

with Assembly Floor Amendments  
(Proposed By Assemblyman BATEMAN)

ADOPTED: SEPTEMBER 26, 1996

The amendments to this bill: clarify the lending authority of banks, savings banks and savings and loan associations by placing limits on the total amount of loans and extensions of credit that can be made to one borrower; provide that a bank, savings bank, or savings and loan association may take certain actions, with the approval of the commissioner, to preserve and protect any loan, obligation or investment held by it even though this action might cause the total loans and extensions of credit to one borrower to exceed the limitations previously imposed; and include savings banks and savings and loan association in the regulatory reforms contemplated in the bill for commercial banks.

STATEMENT TO  
[Second Reprint]  
**ASSEMBLY, No. 1829**

with Assembly Floor Amendments  
(Proposed By Assemblyman BATEMAN)

ADOPTED: OCTOBER 21, 1996

These amendments require a 30 day notice prior to the effective date of any change in a revolving credit agreement; remove the language permitting a bank to qualify an account as a "Consumer Checking Account by establishing an account in agreement with the federal "lifeline account" standards; and correct a reference to a section in the bill.