

17:9A-53 et al

LEGISLATIVE HISTORY CHECKLIST

17:9A-53 et al; 17:10-14; 17:11A-44, (Loans--Amend laws on interest  
17:12B-160; 17:32-27, 17:13-42; 17:16C-40.1 et al; rates, other charges & terms  
NJSA 17:16D-10; 31:1-1; 17:1-9.1; 46:10B-11.1 of repayment)

LAWS 1981 CHAPTER 103

Bill No. S3005

Sponsor(s) Weiss, Merlino and Parker

Date Introduced Jan. 13, 1981

Committee: Assembly -----

Senate Labor, Industry and Professions

Amended during passage Yes No Amendments during passage denoted by asterisks

Date of Passage: Assembly Feb. 23, 1981

Senate Feb. 19, 1981

Date of approval March 31, 1981

Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto Message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

Similar legislation enacted in other states:

Delaware - (attached) P

Pennsylvania - proposed legislation (attached) P

NY - P.L. 1980, c.883

6/22/81

(over)

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Also attached:

32p  
Forrey, Robert C., "Legislature Acts to Lift Fixed Interest' Ceilings",  
46 New Jersey Banker 8

31  
3:31-81

[THIRD OFFICIAL COPY REPRINT]

SENATE, No. 3005

STATE OF NEW JERSEY

INTRODUCED JANUARY 13, 1981

By Senators WEISS, MERLINO and PARKER

Referred to Committee on Labor, Industry and Professions

AN ACT concerning the manner and terms of repayment of, and the rate of interest and other charges on, loans and other transactions which create a contractual debtor-creditor relationship, **\*\*\*[and]\*\*\*** revising parts of the statutory law **\*\*\*and supplementing P. L. 1968, c. 54\*\*\***.

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

1 1. Section 53 of P. L. 1948, c. 67 (C. 17:9A-53) is amended to  
2 read as follows:

3 53. Scope of article: definitions; interest.

4 A. In addition to such other loans which banks are authorized to  
5 make, a bank may make secured and unsecured installment loans  
6 upon the terms and conditions prescribed by this article, but this  
7 article shall not be construed as prescribing an exclusive method  
8 for the making of loans which are payable in installments.

9 B. As used in this article:

10 (1) "Bank" means a banking institution as defined in section 1  
11 (C. 17:9A-1) of this act;

12 (2) "Installment loan" means a loan (1) which is required by its  
13 terms to be repaid in two or more installments; (2) upon which  
14 interest is contracted for at a rate in excess of that authorized  
15 pursuant to R. S. 31:1-1; (3) the amount of which does not exceed  
16 **[\$10,000.00]** the amounts authorized by subsection D. of section  
17 54 of this act (C. 17:9A-54D.) and (4) the final installment of which  
18 is payable not more than **\*[7]\* \*12\*** years and 3 months subsequent  
19 to the date upon which such loan is made. The terms "installment  
20 loan" and "installment loans" as used in this article include both

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

21 precomputed and nonprecomputed installment loans unless other-  
22 wise expressly stated;

23 (3) (Deleted by amendment.)

24 (4) (Deleted by amendment.)

25 (5) "Person" means an individual, a partnership and an  
26 association;

27 (6) (Deleted by amendment.)

28 (7) (Deleted by amendment.)

29 (8) (Deleted by amendment.)

30 (9) "Actuarial method" means the method of applying payments  
31 made on a loan between principal and interest pursuant to which  
32 a payment is applied first to accumulated interest on the principal  
33 amount of the loan and the remainder is applied to the unpaid  
34 principal balance of the loan in reduction thereof;

35 (10) "Precomputed interest" means an amount equal to the  
36 whole amount of interest payable on an installment loan for the  
37 period from the making of the loan to the date scheduled by the  
38 terms of the loan for the payment of the final installment;

39 (11) "Precomputed loan" means an installment loan which is  
40 evidenced by a note the face amount of which consists of the aggre-  
41 gate of the principal amount of the loan so evidenced, and the  
42 precomputed interest thereon;

43 (12) "Nonprecomputed loan" means an installment loan which  
44 is evidenced by a note the face amount of which consists solely of  
45 the principal amount of the loan so evidenced;

46 (13) "Unpaid balance" of an installment loan means the aggre-  
47 gate of the following:

48 (i) The face amount of the note evidencing such loan;

49 (ii) All amounts paid by the bank and added to such loan  
50 as provided in paragraph (2) of subsection A of section 55;

51 (iii) All interest accrued and unpaid;

52 (iv) Such further charges as the bank may make pursuant  
53 to law in protecting or enforcing a security interest in any  
54 property securing the payment of such loan or otherwise;

55 (v) In the case of precomputed loans, the amount of all late  
56 charges imposed pursuant to section 55;

56A less the aggregate of the following:

57 (vi) All installment payments made in the case of a pre-  
58 computed loan, or all payments made in reductionn of principal  
59 in the case of a nonprecomputed loan;

60 (vii) All payments made on account of or in payment in full  
61 of any charges or amounts referred to in subparagraphs (ii),

62 (iii), (iv) and (v) of this paragraph (13); and

63 (viii) In the case of a precomputed loan, the amount of the  
64 credit to which the borrower is entitled pursuant to section 56;

65 (14) "Class I installment loan" means an installment loan  
66 which is unsecured, and also means an installment loan which is  
67 secured by an interest in tangible *or intangible* personal property;

68 (15) "Class II installment loan" means an installment loan  
69 which is secured by an interest in real property.

70 C. [A] *Notwithstanding the provisions of R. S. 31:1-1 or any*  
71 *other law to the contrary, a bank may contract for and receive in-*  
72 *terest on installment loans calculated according to the actuarial*  
73 *method, at a rate [not exceeding 12% per annum on the unpaid*  
74 *balances of the principal, except that the commissioner may, with*  
75 *the advice of the special advisory board created pursuant to P. L.*  
76 *1970, c. 205, section 11 (C. 17:11A-44) by regulation adopted,*  
77 *amended and rescinded from time to time, provide that the rate*  
78 *of interest which may be contracted for and received on Class II*  
79 *installment loans may be more than 12% per annum but not more*  
80 *than 15% per annum as shall be established by such regulation.*  
81 *For the purpose of establishing rates as provided by this subsec-*  
82 *tion, the commissioner may, with the advice of the special advisory*  
83 *board referred to above, classify installment loans into two cate-*  
84 *gories, one of which shall consist of Class I installment loans and*  
85 *the other of which shall consist of Class II installment loans. In*  
86 *adopting, amending, and rescinding regulations pursuant to this*  
87 *subsection, the commissioner and the special advisory board shall*  
88 *consider the general state of the economy, the discount rates pre-*  
89 *scribed by the Federal Reserve Bank of New York and the Federal*  
90 *Reserve Bank of Philadelphia, the advance rate as prescribed by*  
91 *the Federal Home Loan Bank of New York, the availability of*  
92 *funds for loans, studies and statistics published by the Federal*  
93 *Home Loan Bank Board and other agencies of the United States*  
94 *and of this State, and such other factors and bases for determina-*  
95 *tion as the commissioner and the board may deem pertinent. The*  
96 *rate established by any such regulation shall reasonably reflect*  
97 *prevailing market conditions, regionally and nationally, based upon*  
98 *the studies, statistics and factors considered, and shall remain in*  
99 *force until such time as such regulation is rescinded or such rate*  
100 *is increased or decreased by a subsequent regulation. Any such*  
101 *regulation shall have prospective effect only] or rates agreed to by*  
102 *the bank and the borrower. This subsection shall not limit or re-*  
103 *strict the manner of contracting for the interest charge, whether*  
104 *by way of add-on, discount or otherwise, so long as the interest*

105 rate does not exceed that permitted by this subsection. In the  
 106 case of a precomputed loan, the interest may be computed on the  
 107 assumption that all scheduled payments will be made when due,  
 108 and all scheduled installment payments made on a precomputed  
 109 loan may be applied as if they were received on their scheduled  
 110 due dates. In the case of nonprecomputed loans, all installment  
 111 payments shall be applied no later than the next day, other than  
 112 a public holiday, after the date of receipt, and a day shall be  
 113 counted as one-three-hundred-sixty-fifth of a year.

114 D. (Deleted by amendment.)

115 E. (Deleted by amendment.)

116 F. (Deleted by amendment.)

117 G. The commissioner may prepare and distribute to such banks  
 118 as shall make a request therefor, a schedule or schedules to be  
 119 used in ascertaining precomputed interest, or he may approve a  
 120 subsisting schedule or schedules, and interest taken pursuant to  
 121 such schedule or schedules shall constitute a complete compliance  
 122 with this section. A copy of such schedule or schedules, certified  
 123 by the commissioner, shall be evidence in all courts and places.

1 2. Section 54 of P. L. 1948, c. 67 (C. 17:9A-54) is amended to  
 2 read as follows:

3 54. Limitations and conditions.

4 A. Every installment loan shall be evidenced by a note the face  
 5 value of which shall be in an amount determined pursuant to para-  
 6 graph (11) or (12) of subsection B. of section 53, as the case may  
 7 require, and which shall provide for payments to be made at  
 8 monthly intervals on the corresponding date in each month. [Sched-  
 9 uled installment payments shall be in substantially equal amounts,  
 10 except that the final installment scheduled may be in an amount  
 10A twice the amount of a preceding installment, plus \$1.00] \*The note  
 10B may provide for an increase, or may provide for a decrease, or  
 10C both, in the rate of interest applicable to such installment loan.  
 10D \*\*\*No increase during the entire loan term shall result in an  
 10E interest rate of more than 6% per annum over the rate applicable  
 10F initially, nor shall the rate be raised more than 3% per annum  
 10G during any 12 month period. The lender shall not be obligated to  
 10H decrease the interest rate more than 6% over the term of the loan,  
 10I nor more than 3% per annum during any 12-month period. If a rate  
 10J increase is applied to the loan, the lender shall also be obligated to  
 10K adopt and implement uniform standards for decreasing the rate.\*\*\*  
 10L \*\*If the note provides for the possibility of an increase or decrease,  
 11 or both, in the rate, that fact shall be clearly described in plain lan-

11A *guage, in at least 8-point bold face type on the face of the note.\*\**  
 11B *\*\*[In the event that there is an increase in the rate, no such]\*\**  
 11C *\*\*No rate\*\* increase shall take effect **\*\*[unless (a) the increased***  
 11D *rate is not effective]\*\* **\*\*\*[(a)]\*\*\*** during the first 3 years of*  
 11E *the term of the loan, **\*\*\*[(b)]\*\*\*** **\*\*\*or thereafter, (a)\*\*\****  
 11F ***\*\*unless\*\*** at least 90 days prior to the effective date of the first*  
 11G *such increase, or 30 days prior to the effective date of any subse-*  
 11H *quent increase, a written notice has been mailed or delivered to the*  
 11I *borrower that clearly and conspicuously describes such increase,*  
 11J *and **\*\*\*[(c)]\*\*\*** **\*\*\*(b)\*\*\*** **\*\*unless\*\*** at least **\*\*\*[90]\*\*\****  
 11K ***\*\*\*365\*\*\*** days have elapsed without any increase in the rate.*  
 11L ***\*\*\*[In the event of a decrease in the rate the restrictions of this***  
 11M *subsection do not apply.]\*\*\* **\*\*\*No increase during the entire loan***  
 11N *term shall result in an interest rate of more than 6% per annum*  
 11O *over the rate applicable initially, nor shall the rate be raised more*  
 11P *than 3% per annum during any 12-month period.\*\*\** If the note  
 11Q *does provide that the interest rate may be increased then, not-*  
 11R *withstanding the provisions of section 56 of P. L. 1948, c. 67 (C.*  
 11S *17:9A-56), when the unpaid balance owing upon a precomputed*  
 11T *loan is repaid in full or the maturity of the unpaid balance of such*  
 11U *loan is accelerated before the date scheduled for the payment of the*  
 11V *final installment, the bank shall allow a credit on account of the*  
 11W *precomputed interest, calculated according to the actuarial refund*  
 11X *method, **\*\*[assuming that]\*\*** **\*\*as if\*\*** all payments were made as*  
 11Y *scheduled, or if deferred, as deferred; provided, however, that if the*  
 11Z *loan is prepaid within 12 months after the first payment is due, a*  
 11AA *bank may charge a prepayment penalty of not more than **\*(a)\*\****  
 11BB *\$20.00 on any loan up to and including \$2,000.00**\*\*[, \$50.00]\*\*** **\*\****  
 11CC *(b) an amount equal to 1% of the loan**\*\*** on any loan greater than*  
 11DD *\$2,000.00 and up to and including \$5,000.00**\*\*;**\*\* and **\*(c)\*\****  
 11EE *\$100.00 on any loan exceeding \$5,000.00.*  
 11FF *Effective on the first day of the twelfth month following the effec-*  
 12 *tive date of this act, notwithstanding the provisions of section 56*  
 12A *of P. L. 1948, c. 67 (C. 17:9A-56) on all loans, when the unpaid*  
 12B *balance owing upon a precomputed loan is repaid in full or the*  
 12C *maturity of the unpaid balance of such loan is accelerated before*  
 12D *the date scheduled for the payment of the final installment, the bank*  
 12E *shall allow a credit on account of the precomputed interest, calcu-*  
 12F *lated according to the actuarial refund method, **\*\*[assuming***  
 12G *that]\*\** **\*\*as if\*\*** all payments were made as scheduled, or if de-  
 12H *ferred, as deferred; provided, however, that if the loan is prepaid*  
 12I *within 12 months after the first payment is due, a bank may charge*  
 12J *a prepayment penalty of not more than **\*(a)\*\*** \$20.00 on any loan*

12K up to and including \$2,000.00\*\*~~[\$50.00]\*\*~~ \*\*; (b) an amount equal  
 12L to 1% of the loan\*\* on any loan greater than \$2,000.00 and up to  
 12M and including \$5,000.00\*\*,\*\* and \*\*(c)\*\* \$100.00 on any loan ex-  
 12N ceeding \$5,000.00.\* Such note may further provide that up to 3  
 13 months may elapse between the date of the loan and the date sched-  
 14 uled for the payment of the first installment, or between the dates  
 15 scheduled for the payment of subsequent installments, provided  
 16 that in any 12-month period there shall be not more than 3 months  
 17 during which no installment is scheduled to be paid.

18 B. No installment loan shall be made the final installment of  
 19 which is scheduled to be paid more than ~~\*[7]\*~~ \*12\* years and 3  
 20 months subsequent to the date upon which such loan is made.

21 C. No bank shall make any further interest or other charge or  
 22 demand in connection with such loan, other than those expressly  
 23 authorized by this article.

24 D. No bank shall make a Class I installment loan for the  
 25 payment of which any person shall be liable to the bank in any  
 26 capacity, if the amount of such Class I installment loan, and the  
 27 amounts of the unpaid balances owing to the bank on all other  
 28 Class I installment loans for the payment of which such person  
 29 is liable to the bank, will in the aggregate exceed ~~[\$10,000.00]~~  
 30 \$20,000.00 exclusive of interest and other charges nor shall any  
 31 bank make a Class II installment loan for the payment of which  
 32 any person shall be liable to the bank in any capacity, if the amount  
 33 of such Class II installment loan, and the amounts of the unpaid  
 34 balances owing to the bank on all other Class II installment loans  
 35 for the payment of which such person is liable to the bank, will in  
 36 the aggregate exceed ~~[\$10,000.00]~~ \$25,000.00 exclusive of interest  
 37 and other charges.

38 E. ~~[No bank which holds a mortgage which is a first lien on real~~  
 39 ~~property shall make a Class II installment loan secured by a mort-~~  
 40 ~~gage on such real property within 3 years from the time when such~~  
 41 ~~first mortgage was recorded, but this prohibition shall not apply~~  
 42 ~~to any Class II installment loan the purpose of which, as repre-~~  
 43 ~~sented to the bank by the borrower, is to enable the borrower to~~  
 44 ~~pay the cost, in whole or in part, of modernizing, altering, repair-~~  
 45 ~~ing, improving or rehabilitating such real property.] Deleted by~~  
 46 ~~amendment (P. L. , c. ).~~

47 F. Nothing in this section or elsewhere in this article contained  
 48 shall prevent a bank from making an installment loan, the proceeds  
 49 of which will be applied in whole or in part to the repayment at  
 50 or before final maturity of a loan theretofore made under the  
 51 provisions of this article or otherwise.



1 3. Section 3 of P. L. 1975, c. 287 (C. 17:9A-53.4) is amended to  
2 read as follows:

3 3. **[A]** *Notwithstanding the provisions of R. S. 31:1-1 or any*  
4 *other law to the contrary, a banking institution may make educa-*  
5 *ational loans and may charge and collect interest thereon at a rate*  
6 **[not in excess of 1% per month on the first \$10,000.00 of the princi-**  
7 **pal sum owing on all such loans for the payment of which a person**  
8 **is liable to the banking institution in any capacity, and  $\frac{3}{4}$  of 1%**  
9 **on the excess over \$10,000.00 owing on all such loans for the pay-**  
10 **ment of which a person is so liable to the bankng institution]** *or*  
11 *rates agreed to by the banking institution and the borrower.*  
12 Interest shall be calculated according to the actuarial method,  
13 pursuant to which payments made on the loan are applied first to  
14 accumulated interest on the principal amount of the loan and the  
15 remainder applied to the unpaid principal balance of the loan in  
16 reduction thereof. All payments shall be applied no later than the  
17 next day, other than a Sunday or a public holiday, after the date  
18 of receipt, and a day shall be counted as one-three hundred sixty-  
19 fifth of a year. *\*The note or other evidence of the loan may provide*  
20 *for an increase, or may provide for a decrease, or both, in the rate*  
21 *of interest applicable to the loan. \*\*\*No increase during the entire*  
22 *loan term shall result in an interest rate of more than 6% per*  
23 *annum over the rate applicable initially, nor shall the rate be*  
24 *raised more than 3% per annum during any 12-month period. The*  
25 *lender shall not be obligated to decrease the interest rate more*  
26 *than 6% over the term of the loan, nor more than 3% per annum*  
27 *during any 12-month period. If a rate increase is applied to the*  
28 *loan, the lender shall also be obligated to adopt and implement*  
29 *uniform standards for decreasing the rate.\*\*\* \*\*If the note pro-*  
30 *vides for the possibility of an increase or decrease, or both, in the*  
31 *rate, that fact shall be clearly described in plain language, in at*  
32 *least 8-point bold face type on the face of the note.\*\* \*\*[In the*  
33 *event that there is an increase in the rate, no such]***\*\* \*\*No rate\*\***  
34 **increase shall take effect \*\*[unless (a) the increased rate is not**  
35 **effective]\*\*\*\* \*\*[(a)]\*\*****\*\*\* during the first 3 years of the term**  
36 **of the loan, \*\*[(b)]\*\*****\*\*\*or thereafter, (a)\*\*\* \*\*unless\*\*** *at*  
37 *least 90 days prior to the effective date of the first such increase,*  
38 *or 30 days prior to the effective date of any subsequent increase, a*  
39 *written notice has been mailed or delivered to the borrower that*  
40 *clearly and conspicuously describes such increase, and \*\*[(c)]\*\**  
41 **\*\*\* (b)\*\*\* \*\*unless\*\*** *at least \*\*[90]\*\****\*\*\* 365\*\*\*** *days have*  
42 *elapsed without any increase in the rate. \*\*\*[In the event of a*  
43 *decrease in the rate, the restrictions of this subsection do not*

44 apply.\*]\*\*\* \*\*No increase during the entire loan term shall result  
 45 in an interest rate of more than 6% per annum over the rate appli-  
 46 cable initially, nor shall the rate be raised more than 3% per annum  
 47 during any 12-month period.\*\*\*

1 4. Section 6 of P. L. 1959, c. 91 (C. 17:9A-59.6) is amended to  
 2 read as follows:

3 6. A. [The] *Notwithstanding the provisions of R. S. 31:1-1 or any*  
 4 *other law to the contrary, the rate [of interest contracted for or*  
 5 *received by a bank] or rates on advance loans shall [not exceed*  
 6 *1% per month on the daily principal balances owing on all advance*  
 7 *loans outstanding in respect to a] be as agreed to by the bank and*  
 8 *the borrower. Interest may be reckoned according to any method*  
 9 *authorized by [section] R. S. 31:1-1 [of the Revised Statutes].*

9A *\*The contract may provide that the interest rate may be in-*  
 9B *creased, or may be decreased, or both, from time to time; provided,*  
 9C *however, that no increase in interest shall be effective unless: (a)*  
 9D *at least 90 days prior to the effective date of the first such increase,*  
 9E *or 30 days prior to the effective date of any subsequent increase, a*  
 9F *written notice has been mailed or delivered to the borrower that*  
 9G *clearly and conspicuously describes such change and the indebt-*  
 9H *edness to which it applies and states that the incurrence by the*  
 9I *borrower or another person authorized by him of any further in-*  
 9J *debtedness under the plan to which the agreement relates on or*  
 9K *after the effective date of the increase specified in the notice shall*  
 9L *constitute acceptance of the increase and (b) either the borrower*  
 9M *agrees in writing to the increase or the borrower or another person*  
 9N *authorized by him incurs such further indebtedness on or after the*  
 9O *effective date of the increase stated in the notice. The provisions*  
 9P *of this paragraph permitting an increase in a rate of interest shall*  
 9Q *not apply in the case of an agreement which expressly prohibits*  
 9R *changing of interest rates or which provides limitations on changing*  
 9S *of interest rates which are more restrictive than the requirements*  
 9T *of this paragraph.\* \*\*If the contract provides for the possibility*  
 9U *of an increase or decrease, or both, in the rate, that fact shall be*  
 9V *clearly described in plain language, in at least 8-point bold face*  
 9W *type on the face of the contract.\*\**

10 B. For the purposes of this section, charges for premiums ad-  
 11 vanced by the bank for credit life insurance, or credit accident and  
 12 health insurance, or both, shall be treated as part of the principal  
 13 balance owing on an advance loan, but no such charge shall be  
 14 included in determining the maximum permissible indebtedness as  
 15 limited by section 11 of this act.

16 *C. Notwithstanding the provisions of any other law to the con-*  
 17 *trary, a bank which issues a credit card in connection with an*  
 18 *advance loan contract in effect between the bank and the borrower*  
 19 *as authorized by this act may charge the borrower a fee \*not*  
 20 *exceeding \$15.00 per annum\* on an annual or monthly basis \***[not***  
 21 *exceeding such sum as the bank and the borrower may agree upon]\*.*  
 22 *The charge so made may (1) be collected in advance, (2) shall be in*  
 23 *addition to and not in substitution of any other fee or charge au-*  
 24 *thorized by this act, and (3) shall not be deemed to be an interest*  
 25 *charge.*

1 5. Section 3 of P. L. 1964, c. 162 (C. 17:9A-59.27) is amended to  
 2 read as follows:

3 3. (a) **[A]** *Notwithstanding the provisions of R. S. 31:1-1 or any*  
 4 *other law to the contrary, a bank may contract for and receive*  
 5 *interest on a small business loan calculated according to the*  
 6 *actuarial method, at a rate **[not exceeding 12% per annum on the***  
 7 *unpaid balances of the principal; except that the Commissioner of*  
 8 *Banking may, with advice of the special advisory board created*  
 9 *pursuant to P. L. 1970, c. 205, section 11 (C. 17:11A-44) by regula-*  
 10 *tion adopted, amended and rescinded from time to time, provide*  
 11 *that the rate of interest which may be contracted for and received*  
 12 *on any such loan may be more than 12% per annum but not more*  
 13 *than 15% per annum as shall be established by such regulation. In*  
 14 *adopting, amending, and rescinding regulations pursuant to this*  
 15 *subsection, the commissioner and the special advisory board shall*  
 16 *consider the general state of the economy, the discount rates pre-*  
 17 *scribed by the Federal Reserve Bank of New York and the Federal*  
 18 *Reserve Bank of Philadelphia, the advance rate as prescribed by*  
 19 *the Federal Home Loan Bank of New York, the availability of*  
 20 *funds for loans, studies and statistics published by the Federal*  
 21 *Home Loan Bank Board and other agencies of the United States*  
 22 *and of this State, and such other factors and bases for determina-*  
 23 *tion as the commissioner and the board may deem pertinent. The*  
 24 *rate established by any such regulation shall reasonably reflect*  
 25 *prevailing market conditions, regionally and nationally, based*  
 26 *upon the studies, statistics and factors considered, and shall remain*  
 27 *in force until such time as such regulation is rescinded or such*  
 28 *rate is increased or decreased by a subsequent regulation. Any such*  
 29 *regulation shall have prospective effect only **]** or rates agreed on by*  
 30 *the bank and the borrower. This subsection shall not limit or*  
 31 *restrict the manner of contracting for the interest charge, whethe*  
 32 *by way of add-on, discount or otherwise, so long as such charge*

33 does not exceed the limitation imposed by this section. In the case  
 34 of a precomputed loan, the interest charge may be computed on  
 35 the assumption that all scheduled payments will be made when  
 36 due, and all scheduled installment payments made on a precom-  
 37 puted loan may be applied as if they were received on their  
 38 scheduled due dates. In the case of nonprecomputed loans, all  
 39 installment payments shall be applied no later than the next day,  
 40 other than a public holiday, after the date of receipt, and a day  
 41 shall be counted as one-three-hundred-sixty-fifth of a year.

42 (b) (Deleted by amendment.)

1 \*6. Section 4 of P. L. 1964, c. 162 (C. 17:9A-59.28) is amended to  
 2 read as follows:

3 4. (a) Every small business loan shall be evidenced by a note  
 4 which shall be dated the day of the making of such loan, and the  
 5 face amount of which shall be in an amount determined pursuant  
 6 to paragraph (h) or (i) of section 1, of this act as the case may  
 7 require.

8 (b) Each such note shall provide that the amount thereof shall  
 9 be payable in installments on dates separated by payment-periods  
 10 of equal duration measured in terms of months. Any such note  
 11 may provide for the omission of installments, including the first  
 12 installment, during any period not exceeding 93 days in any one  
 13 12-month period. Except as herein otherwise provided, no note  
 14 shall provide for payment-periods shorter than 1 month or longer  
 15 than 3 months. [Each such note shall provide for installment pay-  
 16 ments in equal amounts, except that the final installment may be not  
 17 more than \$1.00 more or less than any previous installment, and no]  
 18 No such note shall provide that the final installment shall be pay-  
 19 able more than 7 years and 3 months from the date of such note.

20 (c) *Effective on the first day of the twelfth month following the*  
 21 *effective date of this act, notwithstanding the provisions of section*  
 22 *11 of P. L. 1964, c. 162 (C. 17:9A-59.35), when the unpaid balance*  
 23 *owing upon a precomputed loan is repaid in full or the maturity of*  
 24 *the unpaid balance of such loan is accelerated before the date*  
 25 *scheduled for the payment of the final installment, the bank shall*  
 26 *allow a credit on account of the precomputed interest, calculated*  
 27 *according to the actuarial refund method, \*\*[assuming that]\*\**  
 28 *\*\*as if\*\* all payments were made as scheduled, or if deferred, as*  
 29 *deferred; provided, however, that if the loan is prepaid within 12*  
 30 *months after the first payment is due, a bank may charge a prepay-*  
 31 *ment penalty of not more than \*\*(1)\*\* \$20.00 on any loan greater*  
 32 *than \$2,000.00\*\*[, \$50.00]\*\* \*\*: (2) an amount equal to 1% of*

33 the loan\*\* on any loan greater than \$2,000.00 and up to and includ-  
 34 ing \$5,000.00\*\*;\* and \*(3)\*\* \$100.00 on any loan exceeding  
 35 \$5,000.00.\*

1 \***[6.]**\* \*7.\* R. S. 17:10-14 is amended to read as follows:

2 17:10-14. **[Every]** Notwithstanding the provisions of R. S.  
 3 31:1-1 or any other law to the contrary, every licensee hereunder  
 4 may loan any sum of money not exceeding \$5,000.00, repayable in  
 5 installments, and may charge, contract for and receive thereon  
 6 interest at an annual percentage rate **[not exceeding 24% on that**  
 7 **part of the unpaid principal balance not exceeding \$500.00, and**  
 8 **22% on that part of the unpaid balance in excess of \$500.00 but not**  
 8A **in excess of \$1,500.00, and 18% on any remainder of such unpaid**  
 8B **principal balance]** or rates agreed to by the licensee and the  
 8C borrower.

8D \*A loan contract other than an open-end loan contract may pro-  
 8E vide for an increase, or may provide for a decrease, or both, in the  
 8F rate of interest applicable to the loan. \*\*\*No increase during the  
 8G entire loan term shall result in an interest rate of more than 6%  
 8H per annum over the rate applicable initially, nor shall the rate be  
 8I raised more than 3% per annum during any 12-month period. The  
 8J lender shall not be obligated to decrease the interest rate more  
 8K than 6% over the term of the loan, nor more than 3% per annum  
 8L during any 12-month period. If a rate increase is applied to the  
 8M loan, the lender shall also be obligated to adopt and implement  
 8N uniform standards for decreasing the rate.\*\*\* \*\*If the contract pro-  
 8O vides for the possibility of an increase or decrease, or both in the  
 8P rate, that fact shall be clearly described in plain language, in at least  
 8Q 8-point bold face type on the face of the contract.\*\* **[In the event**  
 8R **that there is an increase in the rate, no such]**\*\* **No rate\*\***  
 9 **increase shall take effect** **[unless (a) the increased rate is not**  
 9A **effective]**\*\* **\*\*\*[(a)]\*\*\*** during the first 3 years of the term of  
 9B the loan, **\*\*\*[(b)]\*\*\*** **\*\*\*or thereafter, (a)\*\*\*** **\*\*unless\*\*** at least  
 9C 90 days prior to the effective date of the first such increase, or  
 9D 30 days prior to the effective date of any subsequent increase, a  
 9E written notice has been mailed or delivered to the borrower that  
 9F clearly and conspicuously describes such increase, and **\*\*\*[(c)]\*\*\***  
 9G **\*\*\*(b)\*\*\*** **\*\*unless\*\*** at least **\*\*\*[90]\*\*\*** **\*\*\*365\*\*\*** days have  
 9H elapsed without any increase in the rate. **\*\*\*[In the event of a**  
 9I **decrease in the rate, the restrictions of this subsection do not**  
 9J **apply.]\*\*\*** **\*\*\*No increase during the entire loan shall result in an**  
 9K **interest rate of more than 6% per annum over the rate applicable**  
 9L **initially, nor shall the rate be raised more than 3% per annum**

9M during any 12-month period.\*\*\* Where the loan contract so pro-  
 9N-0 vides for an increase or decrease in the rate of interest, the pro-  
 9P vision of R. S. 17:10-13 requiring that no installment be sub-  
 9Q stantially greater in amount than any preceding installment shall  
 9R not apply.

9S An open-end loan contract may provide that the interest rate may  
 9T be increased or may be decreased, or both, from time to time pro-  
 9U vided, however, that no increase in interest shall be effective unless:  
 9V (a) at least 90 days prior to the effective date of the first such in-  
 9W crease, or 30 days prior to the effective date of any subsequent in-  
 9X crease, a written notice has been mailed or delivered to the borrower  
 9Y that clearly and conspicuously describes such change and the in-  
 9Z debtedness to which it applies and states that the incurrence by the  
 10 borrower or another person authorized by him of any further in-  
 10A debtedness under the plan to which the agreement relates on or  
 10B after the effective date of the increase specified in the notice shall  
 10C constitute acceptance of the increase and (b) either the borrower  
 10D agrees in writing to the increase or the borrower or another person  
 10E authorized by him incurs such further indebtedness on or after the  
 10F effective date of the increase stated in such notice. The provisions  
 10G of this paragraph permitting an increase in a rate of interest shall  
 10H not apply in the case of an agreement which expressly prohibits  
 10I changing of interest rates or which provides limitations on chang-  
 10J ing of interest rates which are more restrictive than the require-  
 10K ments of this paragraph.\* \*\*If the contract provides for the possi-  
 10L bility of an increase or decrease, or both, in the rate, that fact shall  
 10M be clearly described in plain language, in at least 8-point bold face  
 10N type on the face of the written notice.\*\*

10o The interest and periodic payments for loans at these \***[maxi-**  
 11 **num]**\* rates shall be computed from standard tables based on the  
 12 actuarial or annuity method which conforms to the so-called "United  
 13 States Rule of Partial Payments," which provides that interest shall  
 14 be calculated whenever a payment is made and the payment shall be  
 15 first applied to the payment of interest and if it exceeds the interest  
 16 due, the balance is to be applied to diminish principal. If the pay-  
 17 ment is insufficient to pay the entire amount of interest the balance  
 18 of interest due shall not be added to principal, so as to produce  
 19 interest thereon.

20 No interest shall be paid, deducted, or received in advance.  
 21 Interest shall not be compounded and shall be computed only on  
 22 unpaid principal balances. For the purpose of computing interest,  
 23 \***[whether at the maximum rate or less,]**\* all installment payments

24 shall be applied no later than the next day, other than a public  
 25 holiday, after the date of receipt, and interest shall be charged for  
 26 the actual number of days elapsed at the daily rate of 1/365th of  
 27 the yearly rate.

28 No licensee shall induce or permit any person nor any husband  
 29 and wife, jointly or severally, to become obligated, directly or  
 30 contingently or both, under more than one contract of loan at the  
 31 same time for the purpose of obtaining a higher rate of interest  
 32 than would otherwise be permitted by this section. This prohibition  
 33 shall not apply to any loan made pursuant to any other law of this  
 34-35 State.

36 In addition to the interest herein provided for no further or other  
 37 charge, or amount whatsoever for any examination, service, broker-  
 38 age, commission, expense, fee, or bonus or other thing or otherwise  
 39 shall be directly or indirectly charged, contracted for, or received,  
 40 except (1) amounts for insurance obtained or provided by the  
 41 licensee in accordance with the provisions of this chapter; and (2)  
 42 on actual sale of the security in foreclosure proceedings or upon  
 43 the entry of judgment. If any interest, consideration or charges in  
 44 excess of those permitted by this chapter are charged, contracted  
 45 for, or received, except as the result of a good faith error, the  
 46 contract of loan shall be void and the licensee shall have no right  
 47 to collect or receive any principal, interest, or charges whatsoever,  
 48 and the borrower shall be entitled to recover from the lender any  
 49 such sums paid or returned to the lender by the borrower on account  
 50 of or in connection with the loan.

1 \*~~7.~~\* \*8.\* Section 11 of P. L. 1970, c. 205 (C. 17:11A-44) is  
 2 amended to read as follows:

3 11. \*~~a.~~\* ~~A~~ *Notwithstanding the provisions of R. S. 31:1-1 or*  
 4 *any other law to the contrary, a licensee shall have authority to*  
 5 *make a secondary mortgage loan, repayable in installments, and*  
 6 *may charge, contract for and receive thereon interest at an annual*  
 7 *percentage rate [not exceeding 15%, computed by the actuarial*  
 8 *method (United States rule) and; provided further, the Commis-*  
 9 *sioner of Banking, with the advice of a special advisory board con-*  
 10 *stituted as hereinafter provided, may by regulation adopted,*  
 11 *amended and rescinded from time to time, provide that the interest*  
 12 *which may be taken for any such loan shall be more than 15% per*  
 13 *annum but not more than 18% per annum, as shall be prescribed in*  
 14 *such regulation] or rates agreed to by the licensee and the*  
 14A *borrower.*

14B \**The note evidencing the loan may provide for an increase, or*  
 14C *may provide for a decrease, or both, in the rate of interest appli-*

14D cable to the loan. \*\*\*No increase during the entire loan term shall  
 14E result in an interest rate of more than 6% per annum over the rate  
 14F applicable initially, nor shall the rate be raised more than 3%  
 14G per annum during any 12-month period. The lender shall not be  
 14H obligated to decrease the interest rate more than 6% over the term  
 14I of the loan, nor more than 3% per annum during any 12-month  
 14J period. If a rate increase is applied to the loan, the lender shall  
 14K also be obligated to adopt and implement uniform standards for  
 14L decreasing the rate.\*\*\* \*\*If the note provides for the possibility of  
 14M an increase or decrease, or both, in the rate, that fact shall be clearly  
 14N described in plain language, in at least 8-point bold face type on  
 14O the face of the note.\*\* \*\***[In the event that there is an increase in**  
 14P **the rate, no such]**\*\* \*\*No rate\*\* \*\*increase shall take effect \*\***[un-**  
 14Q **less (a) the increased rate is not effective]**\*\* \*\***[\*\* (a) \*\*]**\*\*  
 14R **during the first 3 years of the term of the loan, \*\***[ (b) ]**\*\* \*\*or**  
 14S **thereafter, (a)\*\*\* \*\*unless\*\* at least 90 days prior to the effective**  
 14T **date of the first such increase, or 30 days prior to the effective date**  
 14U **of any subsequent increase, a written notice has been mailed or**  
 14V **delivered to the borrower that clearly and conspicuously describes**  
 14W **such increase, and \*\***[ (c) ]**\*\* \*\* (b)\*\*\* \*\*unless\*\* at least**  
 14X **\*\***[ 90 ]**\*\* \*\* 365\*\* days have elapsed without any increase in**  
 14Y **the rate. \*\*\***[ In the event of a decrease in the rate, the restrictions****  
 14Z **of this subsection do not apply.]\*\*\* \*\*\*No increase during the**  
 15 **entire loan term shall result in an interest rate of more than 6%**  
 15A **per annum over the rate applicable initially, nor shall the rate be**  
 15B **raised more than 3% per annum during any 12-month period.\*\*\***  
 15C **Where the note evidencing the loan so provides for an increase or**  
 15D **decrease in the rate of interest, the provision of subsection b. of**  
 15E **section 18 of P. L. 1970, c. 205 (C. 17:11A-51b.) requiring that pay-**  
 15F **ment be made in substantially equal installment payment amounts**  
 15G **shall not apply.\***

15H **\***[ (1) ]**\*** No interest shall be paid, deducted, or received in  
 16 advance. Interest shall not be compounded and shall be computed  
 17 only on unpaid principal balances. For the purposes of computing  
 18 interest, **\***[ whether at the maximum rate or less, ]**\*** a month shall be  
 19 considered a calendar month and where a fraction of a month is  
 20 involved a day shall be considered 1/30 of a month.

21 **\***[ b. [ In making, amending, and rescinding regulations pursuant****  
 22 **to the preceding provision, the ] The Commissioner of Banking [ and**  
 23 **the ] with the advice of a special advisory board constituted as**  
 24 **hereinafter provided, shall consider the general state of the**  
 25 **economy, [ the discount rates prescribed by the Federal Reserve**



26 Bank of New York and the Federal Reserve Bank of Philadelphia,  
27 the advance rate as prescribed by the Federal Home Loan Bank of  
28 New York,] the availability of funds for loans, studies and statistics  
29 published by the Federal Home Loan Bank Board and other agen-  
30 cies of the United States and of this State, and such other factors  
31 and bases for determination as the commissioner and the board  
32 may deem pertinent *to an analysis of whether the purposes of this*  
33 *act are being met, and secondary mortgage loans are available to*  
34 *consumers.* [The rate established by any such regulation shall  
35 reasonably reflect prevailing market conditions, regionally and  
36 nationally, based upon the studies, statistics and factors considered,  
37 and shall remain in force until such time as such regulation is  
38 rescinded or such rate is increased or decreased by a subsequent  
39 regulation. Any such regulation shall have prospective effect only.]

40 c. The special advisory board herein provided for shall consist  
41 of the Commissioner of Banking, who shall be ex-officio chairman  
42 of the board, and 5 members appointed by the Governor with the  
43 advice and consent of the Senate. Any appointed member of the  
44 board may be removed from office by the Governor whenever, in his  
45 judgment, the public interest may so require. Each of the 5 ap-  
46 pointed members shall have had, at the time of his appointment,  
47 practical experience in consumer financing or fields so related  
48 thereto as to qualify each as an authority for the purpose of advis-  
49 ing the Commissioner of Banking regarding the interest which may  
50 be taken for any secondary mortgage loan. At no time shall there  
51 be more than a single representative on the board from any one  
52 institution or group of institutions.

53 d. Each member of the board shall hold office for a term of 2  
54 years, and thereafter until his successor is appointed and has  
55 qualified, subject to removal by the Governor pursuant to the pre-  
56 ceding provision. Members of the board shall be eligible for re-  
57 appointment in the same manner as the initial appointment of  
58 members of the board as provided for heretofore. Any vacancies  
59 in the board shall be filled for the unexpired portion of the term  
60 in the same manner as for a full term.

61 e. The members of the special advisory board shall serve without  
62 compensation, but shall be reimbursed for their actual and neces-  
63 sary expenses in attending meetings of the board. All claims for  
64 reimbursement shall be submitted in the form and manner pre-  
65 scribed for like claims of the Commissioner of Banking.

66 f. The board shall meet at least semiannually, at such times and  
67 places in the State as it may determine. The commissioner may  
68 call such other meetings as he may deem necessary, and he shall

69 call a meeting when requested by 2 or more members of the board.  
 70 At least 3 days notice of every meeting shall be given to each mem-  
 71 ber of the board personally, or by mail, telephone, or telegraph.  
 72 Four members of the board shall constitute a quorum.

73 g. The special advisory board shall elect a secretary who may be  
 74 an employee of the Department of Banking but who shall receive  
 75 no extra compensation for serving as secretary. The secretary shall  
 76 keep an accurate record of all meetings of the board and shall per-  
 77 form such other duties as may be prescribed by the board.

78 h. For the purpose of discharging its duties, the board shall  
 79 have access to all relevant records in the Department of Banking,  
 80 including reports and confidential communications, but each  
 81 member of the board shall treat all information so obtained as con-  
 82 fidential and shall not reveal any such information to any person  
 83 other than another member of the board.

84 i. No member of the board, including the Commissioner of  
 85 Banking, shall be personally liable for any act done or omitted in  
 86 connection with the performance of his duties under this act.

87 j. At the initial meeting of the special advisory board, the mem-  
 88 bers shall agree, by majority vote, to the procedure by which rec-  
 89 ommendations will be made to the commissioner concerning [the  
 90 interest rate to be established pursuant to] this act.]\*

1 \*~~[8.]~~\* \*9.\* Section 160 of P. L. 1963, c. 144 (C. 17:12B-160) is  
 2 amended to read as follows:

3 160. Charges on such loans.

4 \*~~[(1)]~~\* ~~[The]~~ *Notwithstanding the provisions of R. S. 31:1-1 or*  
 5 *any other law to the contrary, the maximum charge which an associ-*  
 6 *ation may contract for and receive on loans as defined in section 158*  
 7 *of P. L. 1963, c. 144 (C. 17:12B-158) shall not exceed an amount*  
 8 *calculated according to the actuarial method at a rate [not exceed-*  
 9 *ing 12% per annum on the unpaid balance of the principal; pro-*  
 10 *vided however, that the Commissioner of Banking, with the advice*  
 11 *of the special advisory board created pursuant to P. L. 1970, c. 205,*  
 12 *s. 11 (C. 17:11A-44), may, by regulation adopted, amended and*  
 13 *rescinded from time to time, provide that the rate of interest which*  
 14 *may be contracted for and received on any such loan may be more*  
 15 *than the rate above set forth but not more than 15% per annum, as*  
 16 *shall be established by such regulation. For the purpose of establish-*  
 17 *ing rates as provided by this subsection, the commissioner may,*  
 18 *with the advice of the special advisory board referred to above and*  
 19 *within the limits prescribed by this subsection, establish the rate*  
 20 *applicable to such loans. In adopting, amending and rescinding*  
 21 *regulations pursuant to this subsection, the commissioner and the*

22 special advisory board shall consider the general state of the  
 23 economy, the discount rates prescribed by the Federal Reserve  
 24 Bank of New York and the Federal Reserve Bank of Philadelphia,  
 25 the advance rate as prescribed by the Federal Home Loan Bank  
 26 of New York, the availability of funds for loans, studies and  
 27 statistics published by the Federal Home Loan Bank Board and  
 28 other agencies of the United States and of this State, and such  
 29 other factors and bases for determination as the commissioner and  
 30 the board may deem pertinent. The rate established by any such  
 31 regulation shall reasonably reflect prevailing market conditions,  
 32 regionally and nationally, based upon the studies, statistics and  
 33 factors considered, and shall remain in force until such time  
 34 as such regulation is rescinded or such rate is increased or de-  
 35 creased by a subsequent regulation. Any such regulation shall have  
 36 prospective effect only] or rates agreed to by the association and  
 37 the borrower. *\*The evidence of indebtedness may provide for an  
 38 increase, or may provide for a decrease, or both, in the rate of in-  
 39 terest applicable to the loan. \*\*\*No increase during the entire loan  
 39A term shall result in an interest rate of more than 6% per annum  
 39B over the rate applicable initially, nor shall the rate be raised more  
 39C than 3% per annum during any 12 month period. The lender shall  
 39D not be obligated to decrease the interest rate more than 6% over  
 39E the term of the loan, nor more than 3% per annum during any  
 39F 12-month period. If a rate increase is applied to the loan, the lender  
 39G shall also be obligated to adopt and implement uniform standards  
 39H for decreasing the rate.\*\*\* \*\*If the evidence of indebtedness pro-  
 40 vides for the possibility of an increase or decrease, or both, in the  
 41 rate, that fact shall be clearly described in plain language, in at  
 42 least 8-point bold face type on the face of the evidence of indebted-  
 43 ness.\*\* \*\*[In the event that there is an increase in the rate, no  
 44 such]\*\* \*\*No rate\*\* increase shall take effect \*\*[unless (a) the in-  
 45 creased rate is not effective]\*\* \*\* \*\*[(a)]\*\* during the first  
 45A 3 years of the term of the loan, \*\*[(b)]\*\* or thereafter,  
 46 (a)\*\* \*\*unless\*\* at least 90 days prior to the effective date  
 47 of the first such increase, or 30 days prior to the effective date of  
 48 any subsequent increase, a written notice has been mailed or  
 49 delivered to the borrower that clearly and conspicuously describes  
 50 such increase, and \*\*[(c)]\*\* (b)\*\* unless\*\* at least  
 51 \*\*[90]\*\* \*\*365\*\* days have elapsed without any increase in  
 52 the rate. \*\*[In the event of a decrease in the rate, the restrictions  
 52A of this subsection do not apply.]\*\* \*\*No increase during the  
 52B entire loan term shall result in an interest rate of more than 6%  
 52C per annum over the rate applicable initially, nor shall the rate be  
 52D raised more than 3% per annum during any 12-month period.\*\*\**

53 Where the evidence of indebtedness provides for an increase or  
 54 decrease in the rate of interest, the provision of subsection (4) of  
 55 section 159 of P. L. 1963, c. 144 (C. 17:12B-159(4)) requiring that  
 56 the amount of any installment shall not be greater or less than any  
 57 other installment shall not apply. If the evidence of indebtedness  
 58 does provide that the interest rate may be increased then, notwith-  
 59 standing the provisions of section 163 of P. L. 1963, c. 144 (C.  
 60 17:12B-163), when the unpaid balance owing upon a precomputed  
 61 loan is repaid in full or the maturity of the unpaid balance of such  
 62 loan is accelerated before the date scheduled for the payment of the  
 63 final installment, the association shall allow a credit on account of the  
 64 precomputed interest, calculated according to the actuarial refund  
 65 method, **\*\*[assuming that]\*\*** **\*\*as if\*\*** all payments were made as  
 66 scheduled, or if deferred, as deferred; provided, however, that if  
 67 the loan is prepaid within 12 months after the first payment is due,  
 68 an association may charge a prepayment penalty of not more than  
 69 **\*\*(a)\*\*** \$20.00 on any loan up to and including \$2,000.00**\*\*[**  
 70 \$50.00**]\*\*** **\*\***; (b) an amount equal to 1% of the loan**\*\*** on any loan  
 71 greater than \$2,000.00 and up to and including \$5,000.00**\*\***; **\*\*** and  
 72 **\*\*(c)\*\*** \$100.00 on any loan exceeding \$5,000.00. Effective on the  
 73 first day of the twelfth month following the effective date of this act,  
 74 notwithstanding the provisions of section 163 of P. L. 1963, c. 144  
 75 (C. 17:12B-163), when the unpaid balance owing upon a precom-  
 76 puted loan is repaid in full or the maturity of the unpaid balance  
 77 of such loan is accelerated before the date scheduled for the pay-  
 78 ment of the final installment, the association shall allow a credit  
 79 on account of the precomputed interest, calculated according to the  
 80 actuarial refund method, **\*\*[assuming that]\*\*** **\*\*as if\*\*** all pay-  
 81 ments were made as scheduled, or if deferred, as deferred; pro-  
 82 vided, however, that if the loan is prepaid within 12 months after  
 83 the first payment is due, an association may charge a prepayment  
 84 penalty of not more than **\*\*(a)\*\*** \$20.00 on any loan up to and in-  
 85 cluding \$2,000.00**\*\*[** \$50.00**]\*\*** **\*\***; (b) an amount equal to 1% of  
 86 the loan**\*\*** on any loan greater than \$2,000.00 and up to and includ-  
 87 ing \$5,000.00**\*\***; **\*\*** and **\*\*(c)\*\*** \$100.00 on any loan exceeding  
 88 \$5,000.00.\* In the case of a precomputed loan, the interest may  
 89 be computed on the assumption that all scheduled payments will  
 90 be made when due, and all scheduled installment payments made on  
 91 a precomputed loan may be applied as if they were received on their  
 92 scheduled due dates. In the case of nonprecomputed loans, all  
 93 installment payments shall be applied no later than the next day,  
 94 other than a public holiday, after the date of receipt, and a day  
 95 shall be counted as one-three-hundred-sixty-fifth of a year.

1 \***[9.]**\* \*10.\* Section 2 of P. L. 1938, c. 293 (C. 17:13-27) is  
2 amended to read as follows:

3 2. Upon executing, recording and filing a certificate of incorpora-  
4 tion as hereinafter provided and upon compliance with the pro-  
5 visions of this act and upon approval of the Commissioner of  
6 Banking as hereinafter provided, any seven or more natural per-  
7 sons citizens of this State, may become a credit union and shall be  
8 a corporation by the name set forth in its certificate of incorpora-  
9 tion with the following powers:

10 (a) To receive the savings of its members as payments on shares,  
11 including the right to conduct Christmas accounts, vacation ac-  
12 counts, and other such thrift accounts within the membership;

13 (b) To make loans to its members for provident or productive  
14 purposes;

15 (c) To make loans to any other credit union operating under the  
16 provisions of this act or of the Federal Credit Union Act; provided,  
17 however, that the aggregate of all loans to other credit unions shall  
18 not exceed 25% of its share liability, and no credit union shall loan  
19 to any other credit union more than 25% of the share liability of  
20 such other credit union;

21 (d) To invest in or purchase any security in which savings banks  
22 of this State are authorized by law to invest, including those in-  
23 vestments which are restricted by law to savings banks alone; and  
24 shares, certificates and accounts of savings and loan associations  
25 organized under the laws of the State of New Jersey and Federal  
26 Savings and Loan Associations, provided all such shares, cer-  
27 tificates and accounts are insured by an agency or instrumentality  
28 of the United States Government, in an amount not to exceed the  
29 amount of the insurance; provided, that no such credit union shall  
30 invest in securities not permitted under the terms of this act; and  
31 provided, that investments, other than in loans to members, shall be  
32 made only from funds not needed for loans to members except when  
33 the board of directors of any such credit union deems it advisable  
34 to invest in other securities for the purpose of maintaining the  
35 liquidity of such credit union or maintaining a proper balance in  
36 its investment portfolio;

37 (e) **[To]** *Notwithstanding the provisions of R. S. 31:1-1 or any*  
38 *other law to the contrary, to charge, contract for and receive inter-*  
39 *est on loans at a rate [not to exceed 1% per month] or rates agreed*  
40 *to by the credit union and the member; and such interest shall not*  
41 *be payable in advance, or compounded, and shall be computed on*  
42 *unpaid balances; provided, that no further or other charge or*  
43 *amount whatsoever for examination, service, brokerage, commis-*

44 sion or otherwise shall be directly or indirectly charged, contracted  
45 for or received on loans, in addition to the interest herein provided  
46 for, except the lawful fees, if any, actually and necessarily paid  
47 out on any such transaction to any public officer for filing or record-  
48 ing or releasing in any public office any instrument securing the  
49 loan, which fees may be collected when the loan is made, or at any  
50 time thereafter, and except on actual sale of the security in fore-  
51 closure proceedings or upon entry of judgment; and attorneys'  
52 fees not to exceed 20% but with a minimum fee of \$10.00, may be  
53 added to the principal amount of any loan of any such credit union  
54 resolved into judgment or placed in the hands of any attorney for  
55 collection after default thereon and such addition to the principal  
56 amount shall be collectible in any court of competent jurisdiction  
57 in addition to the court costs;

58 (f) To deposit its funds in national banks, banks, savings and  
59 loan associations organized under the laws of the State of New  
60 Jersey and Federal savings and loan associations, or savings  
61 banks of this State, central funds of credit unions or central credit  
62 unions organized under the laws of this State or of the Federal  
63 Government;

64 (g) To have and exercise all the powers of corporations orga-  
65 nized under Title 14A of the New Jersey Statutes not inconsistent  
66 with this act;

67 (h) To act as the fiscal agent for the Federal Government, the  
68 State of New Jersey, or any of the subdivisions thereof;

69 (i) To sell to members negotiable checks, drafts, money orders  
70 and travelers checks, for a reasonable fee, and to cash checks and  
71 money orders for members, for a reasonable fee; but credit unions  
72 operating under the provisions of this act are not required to be  
73 licensed under the provisions of P. L. 1951, c. 187 (C. 17:15A-1  
74 et seq.) and P. L. 1964, c. 273 (C. 17:15B-1 et seq.);

75 (j) To purchase land and building for the purpose of providing  
76 adequate facilities for the transaction of its business at a cost not  
77 to exceed 50% of the amount of its reserves, with the prior approval  
78 of the Commissioner of Banking;

79 (k) The Department of Banking of the State of New Jersey, or  
80 what every agency may in the future be charged with the operation  
81 of State chartered credit unions, shall have the power in relation  
82 to loans or investments authorized under this act, to promulgate  
83 rules and regulations in substantial conformity with similar rules  
84 and regulations under the Federal Credit Union Act and under the  
85 regulations promulgated by the administrator of the National  
86 Credit Union Association.

1 \*11. Section 17 of P. L. 1938, c. 293 (C. 17:13-42) is amended to  
2 read as follows:

3 17. Loans to members of any such credit union shall be subject to  
4 the following conditions:

5 (a) All member loans shall be evidenced by note. Loans may be  
6 made to members for provident or productive purposes and upon  
7 such security and terms as the bylaws may provide and the credit  
8 committee shall approve at rates of interest not to exceed [1% per  
9 month on the unpaid balances] *the rate permitted by subsection*  
10 *\*\*[(c)]\*\* \*(e)\*\* of section 2 of P. L. 1938, c. 293 \*\*[(C. 17:13-27*  
11 *(c))]\*\* \*(C. 17:13-27e)\*\**, such rate to include the credit  
12 union's total income on a loan. *The note may provide for an in-*  
13 *crease, or may provide for a decrease, or both, in the rate of interest*  
14 *applicable to the loan. \*\*\*No increase during the entire loan term*  
14A *shall result in an interest rate of more than 6% per annum over*  
14B *the rate applicable initially, nor shall the rate be raised more than*  
14C *3% per annum during any 12-month period. The lender shall not*  
14D *be obligated to decrease the interest rate more than 6% over the*  
14E *term of the loan, nor more than 3% per annum during any 12-month*  
14F *period. If a rate increase is applied to the loan, the lender shall*  
14G *also be obligated to adopt and implement uniform standards for*  
14H *decreasing the rate.\*\*\* \*\*If the note provides for the possibility*  
15 *of an increase or decrease, or both, in the rate, that fact shall be*  
16 *clearly described in plain language, in at least 8-point bold face*  
17 *type on the face of the note.\*\* \*\*[In the event that there is an in-*  
18 *crease in the rate, no such]\*\* \*\*No rate\*\* increase shall take effect*  
19 *\*\*[unless (a) the increased rate is not effective]\*\* \*\*\*[(a)]\*\*\**  
20 *during the first 3 years of the term of the loan, \*\*\*[(b)]\*\*\* \*\*or*  
21 *thereafter, (a)\*\*\* \*\*unless\*\* at least 90 days prior to the effective*  
22 *date of the first such increase, or 30 days prior to the effective date*  
22A *of any subsequent increase, a written notice has been mailed or*  
22B *delivered to the borrower that clearly and conspicuously describes*  
22C *such increase, and \*\*\*[(c)]\*\*\* \*(b)\*\* unless\*\* at least*  
22D *\*\*\*[90]\*\* \*365\*\* days have elapsed without any increase in*  
22E *the rate. \*\*\*[In the event of a decrease in the rate, the restrictions*  
22F *of this subsection do not apply.]\*\*\* \*\*No increase during the*  
22G *entire loan term shall result in an interest rate of more than 6%*  
22H *per annum over the rate applicable initially, nor shall the rate be*  
22I *raised more than 3% per annum during any 12-month period.\*\*\**

23 (b) Applications for loans shall be made on forms prescribed by  
24 the credit committee, which shall set forth the purpose for which  
25 the loan is desired, the security, if any, offered, and such other data

26 as may be required. Every loan shall be evidenced by a written  
27 instrument.

28 (c) No loan shall be made to any member which causes such  
29 member to become indebted to the credit union in an aggregate  
30 amount, upon loans made to such member which is in excess of  
31 \$250.00 or 5% of the credit union's shares and reserves, whichever  
32 is greater, and no loan shall be made to any member which would  
33 exceed 2½% of the credit union's shares and reserves, or \$3,500.00,  
34 whichever is less, unless such excess over 2½% or \$3,500.00 is  
35 adequately secured. In addition to generally accepted types of  
36 security, the endorsement of a note by a comaker or assignment of  
37 shares or of wages, in manner consistent with the laws of this State,  
38 shall be deemed security within the meaning of this act. The  
39 adequacy of all securities shall be within the determination of the  
40 credit committee or loan officer subject to the provisions of this act  
41 and of the credit union's bylaws.

42 (d) No loan shall be made to a director, officer or member of the  
43 credit committee which exceeds the amount of his shares unless the  
44 loan shall have been approved by a majority vote of a joint meet-  
45 ing at which a majority of the members of the credit committee and  
46 a majority of the members of the board of directors are present.  
47 No director or member of the credit or examining committee may  
48 endorse for borrowers from the credit union.

49 (e) A member may receive a loan in one sum, or in fixed install-  
50 ments and may pay the whole or any part of the loan on any day  
51 on which the office of the credit union is open for business.\*

1 \***[10.]**\* \*12.\* Section 1 of P. L. 1961, c. 95 (C. 17:16C-40.1) is  
2 amended to read as follows:

3 1. A sales finance company licensed under the provisions of the  
4 "Retail Installment Sales Act" of 1960 (P. L. 1960, c. 40), as  
5 amended and supplemented, or any act replacing or succeeding  
6 thereto which regulates "retail installment sales," may loan to  
7 any one person any sum of money up to a maximum of \$10,000.00  
8 secured by a purchase money security interest to finance the pur-  
9 chase of a passenger motor vehicle not intended to be used for  
10 the transportation of passengers for hire or upon a contract basis.  
11 The principal amount of such loan may be repaid in not more  
12 than 48 substantially equal monthly installments. **[The]** *Notwith-*  
13 *standing the provisions of R. S. 31:1-1 or any other law to the*  
14 *contrary, the sales finance company may charge interest at a rate*  
15 **[not exceeding \$8.00 per \$100.00 per year]** *or rates agreed to by*  
16 *the sales finance company and the borrower.* Such interest shall  
17 be computed on the full amount of such loan for the period from



18 the making of the loan to the date of maturity of the final install-  
 19 ment, and shall be added to the principal amount of the loan. For  
 20 the purpose of this act, a purchase money security interest is  
 21 hereby defined to be a security interest taken by a sales finance  
 22 company, pursuant to the provisions of chapter 9 of Title 12A  
 23 of the New Jersey Statutes, in connection with and as security for  
 24 an advance of money on behalf of a retail buyer of a motor vehicle  
 25 of the motor vehicle dealer in payment of the unpaid balance of  
 26 the cash price.

27 *\*Effective on the first day of the twelfth month following the*  
 28 *effective date of this act, when the unpaid balance owing upon a*  
 29 *precomputed loan is repaid in full or the maturity of the unpaid*  
 30 *balance of such loan is accelerated before the date scheduled for*  
 31 *the payment of the final installment, the association shall allow a*  
 32 *credit on account of the precomputed interest, calculated according*  
 33 *to the actuarial refund method, \*\*[assuming that]\*\* \*\*as if\*\* all*  
 34 *payments were made as scheduled, or if deferred, as deferred; pro-*  
 35 *vided, however, that if the loan is prepaid within 12 months after*  
 36 *the first payment is due, an association may charge a prepayment*  
 37 *penalty of not more than \*(a)\*\* \$20.00 on any loan up to and in-*  
 38 *cluding \$2,000.00\*\*[, \$50.00]\*\* \*\*; (b) an amount equal to 1% of*  
 39 *the loan\*\* on any loan greater than \$2,000.00 and up to and in-*  
 40 *cluding \$5,000.00\*\*;\*\* and \*(c)\*\* \$100.00 on any loan exceeding*  
 41 *\$5,000.00.\**

1 **\*[11.]** *\*13.\** Section 41 of P. L. 1960, c. 40 (C. 17:16C-41) is  
 2 amended to read as follows:

3 41. A retail seller and a motor vehicle installment seller, under  
 4 the provisions of this act, shall have authority to charge, contract  
 5 for, receive or collect a time price differential as defined in this act,  
 6 on any retail installment contract evidencing the sale of goods or  
 7 services [which shall not exceed the rates for the respective classi-  
 8 fications as follows:

9 Class I. New motor vehicles, an amount not to exceed \$9.00 per  
 10 \$100.00 per year;

11 Class II. Used motor vehicles of a model designated by the  
 12 manufacturer by a year not more than 2 years prior to the year  
 13 in which the sale is made, an amount not to exceed \$11.00 per  
 14 \$100.00 per year;

15 Class III. Older used motor vehicles of a model designated by the  
 16 manufacturer by a year more than 2 years prior to the year in  
 17 which the sale is made, an amount not to exceed \$13.00 per \$100.00  
 18 per year;

19 Class IV. On all other goods or services, an amount not to exceed  
 20 \$10.00 per \$100.00 per year] in an amount or amounts as agreed to  
 21 by the retail seller or motor vehicle installment seller and the buyer  
 22 on motor vehicles and on all other goods or services.

23 \*The retail installment contract may provide for an increase, or  
 24 may provide for a decrease, or both, in the time price differential  
 25 applicable to the contract. \*\*\*No increase during the entire loan  
 25A term shall result in an interest rate of more than 6% per annum  
 25B over the rate applicable initially, nor shall the rate be raised more  
 25C than 3% per annum during any 12-month period. The lender shall  
 25D not be obligated to decrease the interest rate more than 6% over  
 25E the term of the loan, nor more than 3% per annum during any  
 25F 12-month period. If a rate increase is applied to the loan, the lender  
 25G shall also be obligated to adopt and implement uniform standards  
 25H for decreasing the rate.\*\*\* \*\*If the contract provides for the possi-  
 26 bility of an increase or decrease, or both, in the rate, that fact shall  
 27 be clearly described in plain language, in at least 8-point bold face  
 28 type on the face of the contract.\*\* \*\*[In the event that there is an  
 29 increase, no such]\*\* \*\*No rate\*\* increase shall take effect \*\*[un-  
 30 less (a) the increased rate is not effective]\*\* \*\*[(a)]\*\* dur-  
 31 ing the first 3 years of the term of the contract, \*\*[(b)]\*\* or  
 32 thereafter, (a)\*\*\* \*\*unless\*\* at least 90 days prior to the effective  
 32A date of the first such increase, or 30 days prior to the effective date  
 32B of any subsequent increase, a written notice has been mailed or  
 32C delivered to the retail buyer that clearly and conspicuously de-  
 32D scribes such increase, and \*\*[(c)]\*\* (b)\*\*\* \*\*unless\*\* at least  
 32E \*\*[90]\*\* \*\*365\*\* days have elapsed without any increase.  
 32F \*\*[In the event of a decrease the restrictions of this subsection do  
 32G not apply.]\*\* \*\*No increase during the entire contract term shall  
 32H result in an interest rate of more than 6% per annum over the rate  
 32I applicable initially, nor shall the rate be raised more than 3%  
 33 per annum during any 12-month period.\*\*\* \*\*[If the the retail  
 34 installment contract does provide that the time price differ-  
 35 ential may be increased then, notwithstanding the provisions of  
 36 section 43 of P. L. 1960, c. 40 (C. 17:16C-43), when the unpaid  
 37 balance owing upon a contract is paid in full or the maturity of the  
 38 unpaid balance of such contract is accelerated before the date  
 39 scheduled for the payment of the final installment, the holder of the  
 40 contract shall allow a credit on account of the precomputed time  
 41 price differential, calculated according to the actuarial refund  
 42 method; provided however, that if the contract is prepaid within  
 43 12 months after the first payment is due, a holder may charge a pre-

44 *payment penalty of not more than \$20.00 on any contract up to and*  
 45 *including \$2,000.00, \$50.00 on any contract greater than \$2,000.00*  
 46 *and up to and including \$5,000.00 and \$100.00 on any contract*  
 47 *exceeding \$5,000.00.】\*\**

48 *If the retail installment contract does provide that the time price*  
 49 *differential may be increased then, notwithstanding the provisions*  
 50 *of section 43 of P. L. 1960, c. 40 (C. 17:16C-43), when the unpaid*  
 51 *balance owing upon a contract is paid in full or the maturity of the*  
 52 *unpaid balance of such contract is accelerated before the date*  
 53 *scheduled for the payment of the final installment, the holder of the*  
 54 *contract shall allow a credit on account of the precomputed time*  
 55 *price differential calculated according to the actuarial refund*  
 56 *method, \*\*【assuming that】\*\* \*\*as if\*\* all payments were made*  
 57 *as scheduled, or if deferred, as deferred; provided, however, that*  
 58 *if the contract is prepaid within 12 months after the first payment*  
 59 *is due, a holder may charge a prepayment penalty of not more than*  
 60 *\*\* (a) \*\* \$20.00 on any contract up to and including \$2,000.00\*\*【,*  
 61 *\$50.00】\*\* \*\*; (b) an amount equal to 1% of the loan\*\* on any con-*  
 62 *tract greater than \$2,000.00 and up to and including \$5,000.00\*\*;\*\**  
 63 *and \*\* (c) \*\* \$100.00 on any contract exceeding \$5,000.00. Effective*  
 64 *on the first day of the twelfth month following the effective date*  
 65 *of this act, if the retail installment contract does provide for a time*  
 66 *price differential, then, notwithstanding the provisions of section*  
 67 *43 of P. L. 1960, c. 40 (C. 17:16C-43), when the unpaid balance owing*  
 68 *upon a contract is paid in full or the maturity of the unpaid balance*  
 69 *of such contract is accelerated before the date scheduled for the pay-*  
 70 *ment of the final installment, the holder of the contract shall allow*  
 71 *a credit on account of the precomputed time price differential*  
 72 *calculated according to the actuarial refund method, \*\*【assuming*  
 73 *that】\*\* \*\*as if\*\* all payments were made as scheduled, or if de-*  
 74 *ferred, as deferred; provided, however, that if the contract is pre-*  
 75 *paid within 12 months after the first payment is due, a holder may*  
 76 *charge a prepayment penalty of not more than \*\* (a) \*\* \$20.00 on any*  
 77 *contract up to and including \$2,000.00 \*\*【and \$50.00】\*\* \*\*; (b) an*  
 78 *amount equal to 1% of the loan\*\* on any contract greater than*  
 78A *\$2,000.00 and up to and including \$5,000.00\*\*【,】\*\* \*\*;\*\* and \*\* (c) \*\**  
 78B *\$100.00 on any contract exceeding \$5,000.00.\**

79 *The time price differential shall be computed on the amount of the*  
 80 *principal balance as determined in section 27(f), from the date*  
 81 *of the contract to the due date of the final installment, notwith-*  
 82 *standing the fact that the contract is to be repaid in installments.*

83 *If the time price differential so computed is less than \$12.00, and*  
 84 *if the due date of the last installment of the contract is more than*

85 8 months after the date of the contract, a charge of not more than  
 86 \$12.00 may be made in lieu of the time price differential. If the  
 87 time price differential so computed is less than \$10.00, and if the  
 88 due date of the last installment of the contract is 8 months or less  
 89 after the date of contract, a charge of not more than \$10.00 may be  
 90 made in lieu of the time price differential.

1 \*~~12.~~\* ~~14.~~\* Section 17 of P. L. 1971, c. 409 (C. 17:16C-44.1) is  
 2 amended to read as follows:

3 17. (a) ~~Except as provided in subsection (d) of this section, a~~  
 4 ~~4~~\* *Notwithstanding any other law to the contrary, a*\* retail  
 5 seller, sales finance company, *banking institution* or *other* holder  
 6 may charge, receive and collect a time price differential in each  
 6A billing period on obligations incurred pursuant to any retail  
 7 charge account, which shall be determined as specified in the terms  
 8 of the account, subject to the limitations provided herein. Such  
 9 time price differential for each monthly billing period shall not  
 10 exceed the amount resulting from applying the periodic rates  
 11 provided herein to the greater of the following amounts (including  
 12 unpaid time price differentials):

13 (i) The average daily balance of the account for such billing  
 14 period, or

15 (ii) The balance of the account at the beginning or end of such  
 16 billing period.

17 The periodic *rate or rates* shall not exceed ~~1½%~~ on the first  
 18 \$700.00 of any of the above amounts and 1% on the excess  
 19 thereof] *an amount agreed to by the retail seller, sales finance*  
 20 *company, banking institution, or other holder and the retail*  
 21 *buyer.*

21A *\*The terms of the retail charge account may provide that the time*  
 21B *price differential may be increased or may be decreased or both*  
 21C *from time to time provided, however, that no increase shall be effec-*  
 21D *tive unless: (1) at least 90 days prior to the effective date of the*  
 21E *first such increase, or 30 days prior to the effective date of any*  
 21F *subsequent increase, a written notice has been mailed or delivered*  
 21G *to the retail buyer that clearly and conspicuously describes such*  
 21H *change and the indebtedness to which it applies and states that the*  
 21I *incurrence by the retail buyer or another person authorized by him*  
 21J *of any further indebtedness under the plan to which the agreement*  
 21K *relates on or after the effective date of the increase specified in the*  
 21L *notice shall constitute acceptance of the increase and (b) either the*  
 21M *retail buyer agrees in writing to the increase or the retail buyer or*  
 21N *another person authorized by him incurs such further indebtedness*

21o *on or after the effective date of the increase stated in the notice.*  
 21p *The provisions of this paragraph permitting an increase in the*  
 21q *time price differential shall not apply in the case of an agreement*  
 21r *which expressly prohibits changing of the time price differential or*  
 21s *which provides limitations on changing of the time price differential*  
 21t *which are more restrictive than the requirements of this para-*  
 21u *graph.\* \*\*If the terms of the retail charge account provide for the*  
 21v *possibility of an increase or decrease, or both, in the time price*  
 21w *differential, that fact shall be clearly described in plain language, in*  
 21x *at least 8-point bold face type on the face of the written notice.\*\**

22 Notwithstanding the foregoing limitation, if the terms of the  
 23 account so provide, the time price differential may be computed on  
 24 the median amount within a specified range. Such time price differ-  
 25 ential for each monthly billing period shall not exceed the amount  
 26 resulting from applying the respective periodic rates specified  
 27 above to the median amount within the specified range in which the  
 28 greater of the amounts specified in (i) and (ii) is included; pro-  
 29 vided, subject to the classifications and differentiations as may  
 30 reasonably be established by the retail seller, sales finance company,  
 31 *banking institution* or other holder, the same time price differential  
 32 is charged on all balances within the specified range and provided  
 33 further that the time price differential determined by applying the  
 34 respective periodic rates specified above to the median amount  
 35 within the range does not exceed by more than 8% the amount of  
 36 the time price differential determined by applying the respective  
 37 periodic rates specified above to the lowest amount in the range.

38 (b) If the billing period is not monthly, the maximum periodic  
 39 rate shall be that rate which bears the same relation to the respec-  
 40 tive periodic rates per month specified above as the number of days  
 41 in the billing period bears to 30.

42 (c) Notwithstanding the limitation provided in (a) above, for  
 43 any monthly billing period in which a time price differential may be  
 44 charged pursuant to the terms of the account a minimum time price  
 45 differential of not more than \$0.50 may be charged; if the billing  
 46 period is not monthly, a minimum time price differential may be  
 47 charged in such amount which bears the same relation to \$0.50 as  
 48 the number of days in the billing period bears to 30.

49 [Notwithstanding the provisions of this section, the time price  
 50 differential which a banking institution shall be entitled to charge,  
 51 collect or receive in each billing period on obligations incurred pur-  
 52 suant to a retail charge account entered into between such banking  
 53 institution and a retail buyer shall not exceed 1¼% on the first

54 \$700 of the amounts in (a) (i) and (ii) of this section and 1% on the  
55 excess thereof.】

1 \*【13.】\* \*15.\* Section 8 of P. L. 1960, c. 41 (C. 17:16C-69) is  
2 amended as follows:

3 A home repair contractor may impose and receive a credit service  
4 charge 【not exceeding 15% per annum】 *in amount or amounts*  
5 *agreed to by the home repair contractor and the owner* on the  
6 amount owing on the unpaid principal balance of the contract【, or  
7 \$12.00, whichever is greater, except that the commissioner may,  
8 by regulation provide that the credit service charge which may  
9 be contracted for and received shall be more than 12% per annum,  
10 but not more than 18% per annum as shall be established by such  
11 regulation. In adopting regulations pursuant to this section, the  
12 commissioner shall consider the general state of the economy,  
13 the discount rates prescribed by the Federal Reserve Bank of New  
14 York and the Federal Reserve Bank of Philadelphia, the availability  
15 of funds for loans, studies and statistics published by the Federal  
16 Reserve Bank system and other agencies of the United States and of  
17 this State, and such other factors and bases for determination as  
18 the commissioner and the board may deem pertinent. The charge  
19 established by any such regulation shall reasonably reflect prevail-  
20 ing market conditions, regionally and nationally, based upon the  
21 studies, statistics and factors considered, and shall remain in  
22 force until the regulation is rescinded or the rate is increased  
23 or decreased by a subsequent regulation, Regulation shall have  
24 prospective effect only】. This section shall not limit or restrict  
25 the manner of contracting for the credit service charge, whether  
26 by way of add-on, discount or otherwise, so long as the charge  
27 does not exceed that permitted by this section. In the case of a  
28 precomputed contract, the charge may be computed on the as-  
29 sumption that all scheduled payments will be made when due, and  
30 all scheduled installment payments made on a precomputed con-  
31 tract may be applied as if they were received on their scheduled  
32 due dates. In the case of nonprecomputed loans, all installment  
33 payments shall be applied no later than the next day, other than a  
34 public holiday, after the date of receipt, and a day shall be counted  
35 as 1/365 of a year.

36 \*Effective on the first day of the twelfth month following the  
37 effective date of this act, notwithstanding the provisions of section  
38 73 of P. L. 1960, c. 41 (C. 17:16C-73), when the unpaid balance  
39 owing upon a contract is paid in full or the maturity of the unpaid  
40 balance of such contract is accelerated, before the date scheduled

41 *for the payment of the final installment, the holder of the contract*  
 42 *shall allow a credit on account of the credit service charge, calcu-*  
 43 *lated according to the actuarial refund method, \*\*[assuming*  
 44 *that]\*\* \*\*as if\*\* all payments were made as scheduled, or if de-*  
 45 *ferred, as deferred; provided, however, that if the contract is pre-*  
 46 *paid within 12 months after the first payment is due, a holder may*  
 47 *charge a prepayment penalty of not more than \*(a)\*\* \$20.00 on*  
 48 *any contract up to and including \$2,000.00\*\*[, \$50.00]\*\* \*\*;* (b) *an*  
 49 *amount equal to 1% of the loan\*\* on any contract greater than*  
 50 *\$2,000.00 and up to and including \$5,000.00\*\*;\*\* and \*(c)\*\* \$100.00*  
 50A *on any contract exceeding \$5,000.00.\**

1     \***[14.]**\* \*16.\* Section 10 of P. L. 1968, c. 221 (C. 17:16D-10) is  
 2 amended to read as follows:

3     10. Maximum finance charge. A premium finance company shall  
 4 not charge, contract for, receive, or collect a finance charge other  
 5 than as permitted by this act.

6     The finance charge shall be computed, using the actuarial method  
 7 on the balance of the premiums due (after subtracting the down  
 8 payment made by the insured in accordance with the premium  
 9 finance agreement) from the effective date of the insurance cover-  
 10 age, for which the premiums are being advanced, to and including  
 11 the date when the final installment of the premium finance agree-  
 12 ment is payable.

13     **[The]** *Notwithstanding the provisions of R. S. 31:1-1 or any*  
 14 *other law to the contrary, the finance charge shall be computed at a*  
 15 **[maximum]** *rate [of 12% per annum] or rates agreed to by the*  
 16 *premium finance company and the insured plus an additional charge*  
 17 *of \$12.00 per premium finance agreement which additional charge*  
 18 *need not be refunded upon prepayment. However, any insured*  
 19 *may prepay his premium finance agreement in full at any time*  
 20 *before due date of the final installment and in such event the un-*  
 21 *earned finance charge shall be refunded. \*\*\*[The amount of any*  
 22 *such refund shall be calculated in accordance with the rule com-*  
 23 *monly known as the "Rule of 78" and shall represent at least as*  
 24 *great a proportion of the finance charge, if any, as the sum of the*  
 25 *periodic balances after the month in which prepayment is made*  
 26 *bears to the sum of all periodic balances under the schedule of*  
 27 *installments in the agreement.]\*\*\**

27A     \*Effective on the first day of the twelfth month following the  
 27B effective date of this act, when the unpaid balance of a premium  
 27C finance agreement is paid in full, or the maturity of the unpaid  
 27D balance of each agreement is accelerated before the date scheduled

27E for the payment of the final installment, the holder of the agreement  
 27F shall allow a credit on account of the finance charge, calculated  
 27G according to the actuarial refund method, **\*\*[assuming that]\*\***  
 27H **\*\*as if\*\*** all payments were made as scheduled, or if deferred, as  
 27I deferred; provided, however, that if the contract is prepaid within  
 27J 12 months after the first payment is due, a holder may charge a  
 27K prepayment penalty of not more than **\*\*(a)\*\*** \$20.00 on any  
 27L contract up to and including \$2,000.00**\*\*[, \$50.00]\*\*** **\*\***; (b) an  
 27M amount equal to 1% of the loan**\*\*** on any contract greater than  
 27N \$2,000.00 and up to and including \$5,000.00**\*\***; **\*\*** and **\*\*(c)\*\***  
 27O \$100.00 on any contract exceeding \$5,000.00.\*

28 **[**The Commissioner of Banking may by regulation adopted,  
 29 amended and rescinded from time to time, provide that the finance  
 30 charge which may be charged, contracted for, received or collected  
 31 shall be more than 12% per annum but not more than 18% per  
 32 annum, as shall be prescribed in such regulation. In making,  
 33 amending and rescinding regulations pursuant to the preceding  
 34 provision, the Commissioner of Banking shall consider the general  
 35 state of the economy, the discount rates prescribed by the Federal  
 36 Reserve Bank of New York and the Federal Reserve Bank of  
 37 Philadelphia, the availability of funds for loans and such other  
 38 factors and bases for determination as the commissioner may deem  
 39 pertinent. The rate established by any such regulation shall reason-  
 40 ably reflect prevailing market conditions, regionally and nationally,  
 41 based upon studies, statistics and factors considered, and shall  
 42 remain in force until such time as such regulation is rescinded or  
 43 such rate is increased or decreased by a subsequent regulation. Any  
 44 such regulation shall have prospective effect only.]

1 **\*\*[15.]\*\*** **\*\*17.\*\*** R. S. 31:1-1 is amended to read as follows:

2 31:1-1. (a) Except as herein and otherwise provided by law, no  
 3 person shall, upon contract, take, directly or indirectly for loan of  
 4 any money, wares, merchandise, goods and chattels, above the value  
 5 of \$6.00 for the forbearance of \$100.00 for a year, or when  
 6 there is a written contract specifying a rate of interest, no person  
 7 shall take above the value of \$16.00 for the forbearance of \$100.00  
 8 for a year.

9 (b) **[The]** Notwithstanding the limitations of subsection (a) of  
 10 this section, the Commissioner of Banking may by regulations  
 11 adopted, amended and rescinded from time to time, provide that the  
 12 value which may be taken for any **[such loans]** loan secured by a  
 13 first lien on real property as described in paragraph (1) of this sub-  
 14 section shall be a value more than \$6.00 but not more than the



15 Monthly Index of Long Term United States Government Bond  
16 Yields, compiled by the Board of Governors of the Federal Reserve  
17 System and as published by said Board of Governors in the monthly  
18 Federal Reserve Bulletin, for the second preceding calendar month  
19 plus an additional 8% per annum rounded off to the nearest quarter  
20 of 1% per annum. Within the limits as provided by this subsection,  
21 and if he finds it to be in the best interests of the citizens and econ-  
21A omy of this State, the commissioner may establish:

22 (1) A rate of interest on loans secured by a first lien on real  
23 property on which there is erected or to be erected a structure  
24 containing one, two, three, four, five or six dwelling units, a portion  
25 of which structure may be used for nonresidential purposes. The  
26 commissioner may establish different rates for such loans based  
27 upon the ratio of the loan to the appraised value of the real prop-  
28 erty. With respect to loans covered by this subsection, the com-  
29 missioner may by regulation provide that any mortgage commit-  
30 ment outstanding as of the date of an increase in the rate set by  
31 the commissioner shall be extended from that date for a period not  
32 to exceed 60 days, provided that such extension shall not apply to  
33 any commitment which expires beyond the extension period so  
34 established.

35 (2) [A rate of interest on all loans not included within paragraph  
36 (1) of this subsection, except as otherwise provided by law.]

37 If for any reason no such index of long term bonds is compiled  
38 or published for any 1 or more months, the commissioner shall  
39 determine and publish such an index based upon available statistics.

40 In the case of a loan secured by a first lien on real property [as  
41 described in subsection (1) of this section] *made under the pro-*  
42 *visions of paragraph (1) of this subsection*, beginning in the cal-  
43 endar year following the date of the mortgage loan, and annually  
44 thereafter, the mortgagee shall notify the mortgagor of the interest  
45 rate ceilings established by the commissioner as of the fifteenth day  
46 of the month preceding. Such notification shall be given at the  
47 same time as the mortgagee gives notice to the mortgagor for  
48 Federal Income Tax purposes of the interest paid on the loan in  
49 the preceding calendar year.

50 (c) When, however, pursuant to any such contract, interest or  
51 discount is taken or reserved for a period of less than 1 year, or  
52 when interest is required to be paid at intervals of less than 1 year  
53 such interest or discount may be computed on a daily basis, or on a  
54 monthly basis, or on a combination of both such bases when the  
55 period for which interest or discount is taken or reserved contains  
56 1 or more months and 1 or more days; and, in any such case, a day

57 shall be deemed to be a  $1/360$  part of a year, and a month shall  
58 be deemed to be a  $1/12$  part of a year, regardless of the number of  
59 days contained in such month. Any computation of interest or  
60 discount made on any such basis shall constitute a compliance with  
61 this section, and any such basis may be applied regardless whether  
62 the principal debt is payable in more than or less than 1 year from  
63 the time of making the loan.

64 (d) In making, amending and rescinding regulations pursuant  
65 to subsection (b) of this section, the Commissioner of Banking  
66 shall consider the general state of the economy, the discount rates  
67 prescribed by the Federal Reserve Bank of New York and the  
68 Federal Reserve Bank of Philadelphia, the advance rate as pres-  
69 cribed by the Federal Home Loan Bank of New York, the avail-  
70 ability of funds for loans, studies and statistics published by the  
71 Federal Home Loan Bank Board and other agencies of the United  
72 States and of this State, and such other factors and bases for  
73 determination as the commissioner may deem pertinent. The rate  
74 established by any such regulations shall reasonably reflect pre-  
75 vailing market conditions, regionally and nationally, based upon  
76 the studies, statistics and factors considered, and shall remain  
77 in force until such time as such regulation is rescinded or such  
78 rate is increased or decreased by a subsequent regulation. Any  
79 such regulation shall have prospective effect only, and any rate  
80 established in excess of 8% shall apply only to loans secured by real  
81 estate on which there is erected or to be erected a structure contain-  
81A ing one, two, three, four, five or six dwelling units, a portion of  
82 which structure may also be used for nonresidential purposes].

83 (e) Notwithstanding the provisions of paragraph (a) or (b) of  
84 this section, contracts for the following classes or types of loans  
85 may provide for any rate of interest which the parties agree upon,  
86 and interest at any such rate may be taken, notwithstanding that  
87 it exceeds a rate limited by paragraph (a) or (b) of this section:

88 (1) Loans in the amount of \$50,000.00 or more, except loans  
89 where the security given is a first lien on real property on which  
90 there is erected or to be erected a structure containing one, two,  
91 three, four, five or six dwelling units, a portion of which structure  
92 may be used for nonresidential purposes. The rate of interest  
93 stated in such contract upon the origination of such loans may be  
94 taken notwithstanding that payments thereon reduce the amount  
95 outstanding to less than \$50,000.00;

96 (2) Loans or advances of credit made by savings and loan  
97 association, banking institutions, or any Department of Housing

98 and Urban Affairs or Federal Housing Administration approved  
 99 mortgagees which are subsequently purchased, in whole or in part,  
 100 by the Federal Housing Administration, Veterans Administration,  
 101 Farmers Home Administration, Federal National Mortgage As-  
 102 sociation, Government National Mortgage Association, Federal  
 103 Home Loan Mortgage Corporation, and any successor thereof or  
 104 by any organization authorized by the Emergency Home Finance  
 105 Act of 1970 to purchase such loans or by any State or Federal  
 106 governmental or quasi-governmental organizations.

107 If such loan is not purchased within 395 days from the date the  
 108 loan instruments are executed, the maximum rate of interest which  
 109 may be charged on such loan shall not be in excess of that autho-  
 110 rized by the commissioner under the provisions of this section and  
 111 such rate of interest, if in excess of that rate, shall be reduced to  
 112 the rate in effect at the date of the execution of the loan instru-  
 113 ments. No such reduction shall change the maturity date of the  
 114 loan without the written consent of the borrower nor shall such  
 115 reduction affect the lien of the mortgage which secures the loan.

116 (f) Any provision in a mortgage commitment contracted prior to  
 117 the effective date of this act providing for an increase in interest  
 118 rates to be charged based on the highest lawful interest rate shall  
 119 be null and void.

120 (g) *Notwithstanding any other provisions of this section, if the*  
 121 *applicable rate prescribed in this subsection exceeds the rate a*  
 122 *person would be permitted to charge in the absence of this subsec-*  
 123 *tion, the rate of interest which may be taken on a loan for a business*  
 124 *or agricultural purpose in the amount of \$1,000.00 or more may not*  
 125 *exceed 5% in excess of the discount rate, including any surcharge*  
 126 *thereon, or any 90-day commercial paper in effect at the Federal*  
 127 *Reserve Bank of New York on the day when such loan is made.*

1 \***[16.]**\* \*18.\* The Commissioner of Banking shall monitor the  
 2 interest rates being charged on the loans affected by \***[this act]**\*  
 3 \*P. L. . . . , c. . . . (now pending before the Legislature as Senate  
 4 Bill No. 3005 of 1981)\* and shall report to the Legislature no later  
 5 than 9 months after the enactment of this \***[legislation]**\* \*act, and  
 6 annually thereafter\* whether or not the elimination of statutory  
 7 interest rate ceilings as provided herein shall continue or whether  
 7A or not, with respect to individual types of loans affected by \***[this**  
 7B **act]**\* \*P. L. . . . , c. . . . (now pending before the Legislature as  
 7C Senate Bill No. 3005 of 1981)\*, interest rate ceilings shall be  
 7D reimposed.

8 In making his recommendation, the commissioner shall consider  
 9 whether: a. a substantial degree of competition exists among len-

10 ders with respect to the making of the loans; b. the interest rates  
11 being charged on the loans reasonably reflect market conditions;  
12 and c. the elimination of the interest rate ceilings has served to  
13 increase the availability of consumer loans in this State.

1 \*\*\*19. P. L. 1968, c. 54 (C. 46:10B-1 et seq.) is supplemented to  
2 read as follows:

3 *Discount points paid by the buyer or seller in connection with a*  
4 *mortgage loan on a one-to-six family dwelling, occupied or to be*  
5 *occupied by the owner shall be deemed to be interest charged on*  
6 *the loan. For the purposes of this section, "discount point" shall*  
7 *mean an amount of money equal to 1% of the principal amount of*  
8 *the loan and payable at closing.\*\*\**

1 \***[17.]**\* \*\*\***[\*19.\*]**\*\*\* \*\*\*20.\*\*\* This act shall take effect  
2 immediately.

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111 such rate of interest, if in excess of that rate, shall be reduced to  
 112 the rate in effect at the date of the execution of the loan instru-  
 113 ments. No such reduction shall change the maturity date of the  
 114 loan without the written consent of the borrower nor shall such  
 115 reduction affect the lien of the mortgage which secures the loan.

116 (f) Any provision in a mortgage commitment contracted prior to  
 117 the effective date of this act providing for an increase in interest  
 118 rates to be charged based on the highest lawful interest rate shall  
 119 be null and void.

120 (g) *Notwithstanding any other provisions of this section, if the*  
 121 *applicable rate prescribed in this subsection exceeds the rate a*  
 122 *person would be permitted to charge in the absence of this subsec-*  
 123 *tion, the rate of interest which may be taken on a loan for a business*  
 124 *or agricultural purpose in the amount of \$1,000.00 or more may not*  
 125 *exceed 5% in excess of the discount rate, including any surcharge*  
 126 *thereon, or any 90-day commercial paper in effect at the Federal*  
 127 *Reserve Bank of New York on the day when such loan is made.*

1 16. The Commissioner of Banking shall monitor the interest  
 2 rates being charged on the loans affected by this act and shall  
 3 report to the Legislature no later than 9 months after the enact-  
 4 ment of this legislation whether or not the elimination of statutory  
 5 interest rate ceilings as provided herein shall continue or whether  
 6 or not, with respect to individual types of loans affected by this  
 7 act, interest rate ceilings shall be reimposed.

8 In making his recommendation, the commissioner shall consider  
 9 whether: a. a substantial degree of competition exists among len-  
 10 ders with respect to the making of the loans; b. the interest rates  
 11 being charged on the loans reasonably reflect market conditions;  
 12 and c. the elimination of the interest rate ceilings has served to  
 13 increase the availability of consumer loans in this State.

1 17. This act shall take effect immediately.

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#### STATEMENT

The purpose of this bill is to permit the competitive free enter-  
 prise market to set the rates for borrowing by New Jersey con-  
 sumers. The plethora of separate laws and interest rate ceilings  
 have impeded the ability of New Jersey citizens to obtain necessary  
 credit for many major periods over the past decade.

The New York State Legislature, in Extraordinary Session in  
 November 1980, enacted a law eliminating all legislatively imposed  
 interest rate ceilings on loans and retail installment sales by

S3005 (1981)

licensed and supervised financial institutions and sellers, and setting a realistic rate maximum on all others. This bill does the same for New Jersey, mirroring the New York law. Without it, New Jersey consumers, businesses, institutions and the economy generally will suffer, as business and commerce flow to New York and its free market economy.

A similar bill is before the Pennsylvania Legislature, which is addressing the same problem.

In modern times, money market rates are set on a world-wide basis. This, combined with an increasing volatility of rates, United States inflation rates at historic highs, and high international money market levels, requires that New Jersey's laws on rates be modernized to permit New Jerseyans to obtain capital, credit, and consumer goods. Arbitrary restrictions will only retard New Jersey's growth in comparison with other states.

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SENATE LABOR, INDUSTRY AND  
PROFESSIONS COMMITTEE

STATEMENT TO

**SENATE, No. 3005**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 2, 1981

This legislation removes the usury ceilings from consumer loans, permitting any rate to be charged which is agreed to by the lender and the borrower. The basic State usury ceiling is raised to 16%; this rate covers all loans in which the rate is not otherwise specified by statute. The Senate Labor, Industry and Professions Committee has amended the legislation to permit lenders to vary the rates on loans in certain cases, provided that rate increases on fixed term loans may not be raised more frequently than every 90 days; on revolving credit the rate may be varied every 30 days after an initial rate increase is made under the provisions of the act. The committee has also amended the bill to require lenders to rebate interest according to the actuarial method on the consumer loans covered by the legislation, rather than the rule of 78's, which is presently provided for in the law. The committee amendments also provide a ceiling of \$15.00 on charges for credit cards issued by banks, savings banks, and savings and loan associations.

STATEMENT TO  
**SENATE, No. 3005**  
with Senate amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 9, 1981

In addition to technical changes, these amendments would provide for disclosure of the fact that a debtor-creditor contract permits a variable rate.

The amendments permit a maximum prepayment penalty, on loans over \$2,000.00 and up to and including \$5,000.00, of an amount equal to 1% of the loan, rather than a fixed fee of \$50.00.



FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

MARCH 31, 1987

FOR FURTHER INFORMATION

KATHRYN FORSYTH

Governor Brendan Byrne today signed S-3005, which repeals interest ceilings on many types of credit in New Jersey, and S-3101, which lowers the definition of criminal usury for loans to individuals from 50 percent per annum to 30 percent per annum.

Both measures were sponsored by Senator Lawrence S. Weiss (D-Middlesex). An explanation of S-3005 follows and a statement from Governor Byrne on the signing of both bills is attached to this release.

S-3005 deregulates the following types of credit: installment loans; educational loans, advance loans (overdraft accounts and credit cards); small business loans (through which the borrower grosses less than \$1 million); small loans of less than \$5,000; second mortgages; loans made by savings and loan associations; credit union loans; retail installment loans (car loans); retail charge accounts; home repair loans and insurance premium financing.

Residential first mortgages are not affected.

In addition to permitting the borrower and the lender to agree on an interest rate, the bill permits variable interest charges on all of the above loans, except small business loans, home repair credit and premium financing. The loan note or instrument must advise the borrower of this provision in eight point type.

Because a lender may change the rate of interest, the borrower must be given 90 days notice of the first change. Any subsequent changes must be preceded by 30 days notice, but the lender can only hike the interest once every 365 days and by no more than three percent.

The bill prohibits interest from rising by more than six percentage points from the initial rate and interest must remain stable for the first three years of the loan.

There are exceptions under the bill concerning floating credit charges for three types of loans: advance loans (overdraft accounts and credit cards), open-end small loans and retail charge accounts.

For these types of loans, there is no three-year freeze and no limit to the amount on timing of interest increases, although the creditor must still give 90 days advance notice of the first interest increase and 30 days advance notice for any subsequent increase.

The borrower also has the right to resist an increased interest charge in these types of loan relationships. Upon receipt of a 90 days increase notice, he can either agree in writing to the increase or continue to incur indebtedness after the effective date. If the borrower incurs no more debt after the effective date, then the interest accrues at the old rate.

In addition, the bill permits a bank or other credit card issuer to charge a fee of up to \$15 for credit cards.

Other provisions of the bill change the manner in which precomputed interest is rebated when installment loans, small business loans, loans by savings and loan associations, retail and car loans, home repair credit and insurance premium financing loans are repaid.

Beginning the twelfth month after this bill becomes law, precomputed interest must be rebated according to the actuarial method when the borrower prepays or when the loan is accelerated. If the loan is paid off during the first year that the bill is effective, there are certain minimum pre-payment charges.

Under the bill, discount points charged by mortgage lenders are deemed interest, thereby making them tax deductible by the borrower.

Finally, the measure requires the Commissioner of Banking to report to the Legislature nine months after enactment and annually thereafter of the effects of interest rate deregulation.

# #

STATEMENT OF GOVERNOR BRENDAN BYRNE

IN SIGNING S-3005 AND S-3101

Senate Bill No. 3005, which I am signing today, removes State mandated ceilings on interest rates on a wide variety of loans. Additionally, lenders will be able to offer borrowers variable interest rate loans. I am also signing S-3101 which lowers the definition of criminal usury for loans to individuals from 50 percent per annum to 30 percent per annum.

Under this bill, interest rates for loans such as installment credit, retail credit, education loans, credit cards, second mortgages, overdraft accounts, car loans and others may be set according to market conditions. Interest rates may fluctuate provided the lender gives full disclosure to the borrower and advance notice in writing of any change. On most loans, the change in interest may not be more than three percent in any year and no more than six percent from the original rate.

Interest on credit cards and retail charge accounts could vary immediately for new indebtedness provided there is both adequate notice to the borrower and agreement by the borrower to the new rate. There is no limit on the amount or timing of rate increases.

On the other hand, a lender may not alter the interest rate during the first three years of the loan. Although the language in the bill could be clearer, I read it to restrict a lender's right to alter interest rates until the loan is at least three years old.

Credit has become a commodity in our society. At the same time, continued inflation has made credit more expensive like other items. Recently, as inflation has driven up the cost of credit, yesterday's interest ceilings have dried up credit, thereby quieting significant sectors of our economy. I believe that market forces and not the State should regulate the cost and availability of credit. Other states have already moved in this direction.

Some believe that this bill will ruin many consumers. I disagree. I expect that our banks and other lenders will behave responsibly; competitive pressures should prevent lenders from setting artificially high interest rates. Similarly, I believe that most New Jersey consumers will avoid excessive indebtedness. I share the concerns of the Public

Advocate about possible overreaching by second mortgage lenders. The concern he voiced was the principal reason why I would not sign S-3005 without the lowering of the criminal usury rate to 30 percent. Strict adherence to that law will be demanded.

The Commissioner of Banking and I will be watching the effects of this bill closely. If lenders abuse their new freedom of fixing unrealistic interest rates or by taking advantage of the disadvantaged, I shall address them swiftly.

# # #



HOUSE OF REPRESENTATIVES  
131ST GENERAL ASSEMBLY

HOUSE BILL NO. 28

FEB 18 1981

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AS AMENDED BY

HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 5 AND TITLE 6 OF THE DELAWARE CODE BY PROVIDING FOR THE ACQUISITION OF STOCK IN DELAWARE BANKS BY OUT-OF-STATE BANK HOLDING COMPANIES; BY PROVIDING FOR THE REGULATION OF BANK REVOLVING CREDIT AND CLOSED END CREDIT; BY PROVIDING RULES FOR THE TAXATION OF INCOME OF NON-UNITED STATES BRANCH OFFICES OF DELAWARE BANKS; BY ADOPTING NEW RATES FOR THE TAXATION OF NET INCOME OF BANKS IN EXCESS OF \$20 MILLION DOLLARS; BY ELIMINATING CEILINGS ON INTEREST RATES WHICH MAY BE CHARGED IN RESPECT OF SMALL LOANS, SECONDARY MORTGAGE LOANS, MOTOR VEHICLE LOANS AND RETAIL INSTALLMENT SALES; BY PROVIDING FOR REFUNDS OF PRECOMPUTED INTEREST CHARGES IN ACCORDANCE WITH THE ACTUARIAL METHOD; BY PROVIDING FOR THE ISSUANCE OF REGULATIONS BY THE BANK COMMISSIONER ESTABLISHING REASONABLE TIMES FOR THE OPENING OF A BRANCH OF A SAVINGS BANK; BY REGULATING THE MAKING OF LOANS DIRECTLY OR INDIRECTLY TO DIRECTORS AND EXECUTIVE OFFICERS OF BANKS; AND BY DELETING FROM THE CODE PREVIOUSLY REPEALED PROVISIONS RELATING TO THE COLLECTION, PAYMENT AND DISHONOR OF DEMAND ITEMS AND REVOCATION OF LETTERS OF CREDIT; AND TO AMEND TITLE 30 TO PROVIDE FOR THE TAXATION OF AFFILIATED FINANCE COMPANIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. This Act may be referred to as "The Financial Center Development Act".

Section 2. Amend Title 5, Delaware Code, by adding a new Chapter 8 as follows:

"CHAPTER 8. ACQUISITION OF STOCK IN BANKS LOCATED IN THE STATE OF DELAWARE BY OUT-OF-STATE BANK HOLDING COMPANIES.

§801. Definitions

As used in this chapter:

(a) 'Bank' means a bank or trust company created under this title or a national banking association created under the National Bank Act, 12, U.S.C.

§§21, et seq., after the effective date of this chapter.

(b) 'Out-of-state bank holding company' means a bank holding company as defined in the Bank Holding Company Act of 1956, as amended (12 U.S.C. §§1481 et seq.), with banking subsidiaries whose operations are principally conducted in a state other than Delaware. For the purposes of this chapter, the state in which the operations of a bank holding company's bank subsidiaries are principally conducted is that state in which the total deposits of all such banking subsidiaries are greatest.

(c) 'Commissioner' means the State Bank Commissioner of the State of Delaware.

(d) 'Divest' means to transfer all interest, legal or equitable, to a person or other entity in which the transferor has no interest, direct or indirect, or which has no interest, direct or indirect, in the transferor.

(e) 'Located in this State' means, with respect to state-chartered banks, banks created under the law of this State and, with respect to national banking associations, banks whose organization certificate identifies an address in this State as the place at which its discount and deposit operations are to be carried out.

(f) 'Subsidiary' means, with respect to an out-of-state bank holding company, (1) any company 25% or more of whose voting shares is directly or indirectly owned or controlled by such bank holding company, or is held by it with power to vote; or (2) any company the election of a majority of whose directors is controlled in any manner by such bank holding company.

**§802. Purpose**

This chapter deals with conditions under which out-of-state bank holding companies or subsidiaries thereof may acquire and hold shares of voting stock in banks located in this State; it shall not be construed to limit the powers granted to any bank in this State to conduct its business.

**§803. Acquisitions**

Except as provided in §1842 of Title 12 of the United States Code and as provided herein, no out-of-state bank holding company or any subsidiary thereof may acquire or hold, directly or indirectly, more than 5% of any voting shares of, interest in, or all or substantially all of the assets of any bank located in this State. Notwithstanding the foregoing, an out-of-state bank holding company or any subsidiary thereof may acquire and hold all or substantially all of the voting shares

of a single bank located in this State when and for so long as the following conditions are satisfied:

(a) The bank whose stock is to be acquired is a newly established bank that has or will have when chartered no more than a single office located in this State open to the public for the conduct of banking business;

(b) The bank whose stock is to be acquired has or will have on the date of commencement of banking business in this State a minimum capital stock and paid-in surplus of 10 million dollars and will have within one year of the date of its commencement of banking business in this State a minimum capital stock and paid-in surplus of 25 million dollars;

(c) The bank whose stock is to be acquired employs on the date of commencement of its banking business in this State or will employ within one year of such date not less than 100 persons in this State in its business;

(d) The bank whose stock is to be acquired is operated in a manner and at a location that is not likely to attract customers from the general public in this State to the substantial detriment of existing banking institutions located in this State; provided that such bank may be operated in a manner likely to attract and retain customers with whom that bank, the out-of-state holding company or such holding company's bank or non-banking subsidiaries have or have had business relations; and

(e) Such acquisition has received the prior approval of the Commissioner.

**§804. Approval by the Commissioner**

(a) Any out-of-state bank holding company or subsidiary thereof proposing an acquisition pursuant to §803 of this chapter shall file an application with the Commissioner for approval to make such acquisition. Such application shall contain such information as the Commissioner may by regulation require, and shall specifically acknowledge applicant's agreement to be bound by the conditions set forth in §803 of this chapter. In addition, such application shall designate a resident of this State as applicant's agent for the service of any paper, notice or legal process upon applicant in connection with matters arising out of this chapter and shall be accompanied by a filing fee in the amount of five thousand dollars for the use of the State.

(b) In determining whether to approve an acquisition by an out-of-state bank holding company or any subsidiary thereof of any voting stock of a bank located in this State, the Commissioner shall consider:

(1) The financial and managerial resources of the out-of-state bank holding company or its subsidiary;

(2) The future prospects of the out-of-state bank holding company and the bank whose assets or shares it will acquire or its subsidiary;

(3) The financial history of the out-of-state bank holding company or its subsidiary;

(4) Whether such acquisition or holding may result in undue concentration of resources or substantial lessening of competition in this State; and

(5) The convenience and needs of the public of this State.

**§805. Required Reports**

An out-of-state bank holding company that directly or indirectly through any subsidiary, acquires voting stock of a bank pursuant to this chapter shall file with the Commissioner copies of all regular and periodic reports which such bank holding company is required to file under §§13 or 15(d) of the Securities and Exchange Act of 1934, as amended, but excluding any portions not available to the public.

**§806. Rules, Regulations and Orders**

The Commissioner may adopt rules and regulations and issue Orders under this chapter for the following purposes:

(a) To prescribe information or forms required in connection with an application pursuant to §804(a);

(b) To establish procedures in connection with approvals pursuant to §804(b) and the filing of required reports pursuant to §805;

(c) To issue orders under §807 and establish procedures governing such issuances.

**§807. Divestiture**

(a) Upon his determination that any out-of-state bank holding company or subsidiary thereof is holding stock in a bank located in this State in violation of the conditions set forth in §803 or of its agreement pursuant to §804(a) of this chapter the Commissioner may order such out-of-state holding company or subsidiary thereof to take steps to remedy such violation by a date certain.

(b) The Commissioner shall have the authority to order an out-of-state bank holding company or subsidiary thereof to divest any shares of a bank that it has acquired under the provisions of this chapter upon his determination that such



holding company or subsidiary continues to own shares of stock of a bank located in this State in violation of the conditions contained in §803 or of its agreement pursuant to §804(a) of this chapter after the date fixed for compliance by any Order issued under subparagraph (a) of this §807.

(c) An out-of-state bank holding company or subsidiary thereof shall divest any shares of a bank that it has acquired under the provisions of this chapter within two years of the date an Order issued under subparagraph (b) of this §807 becomes final and subject to no further judicial review; provided that the Commissioner may extend such two-year period for a further period or periods upon his determination that such an extension would not be detrimental to the public interest.

(d) The Court of Chancery of the State of Delaware will have exclusive original jurisdiction of any judicial review of an Order issued under subsection (b) of this section, any other provision of law notwithstanding. Such review may be sought by the out-of-state bank holding company or subsidiary thereof that is the subject of such divestiture order at any time within one year of the date of such Order. Review of a divestiture order shall be de novo and such order will be specifically enforced by the Court of Chancery upon a final determination that at the time of its issuance, the divestiture order was valid in all respects. An Order issued under subsection (a) of this section shall not be subject to judicial review.

**§808. Severability**

If any provision of this chapter is held invalid, such invalidity shall not affect any other provisions or applications of this chapter which can be given effect without the invalid provision, except that if any two provisions of §803 are for any reason held invalid as conditions of the statutory grant contemplated by this chapter and unenforceable as terms of an agreement under §804(a) of this chapter, in final orders subject to no further judicial review, entered by Courts of competent jurisdiction of this State or of the United States, no out-of-state bank holding company or any subsidiary thereof may thereafter acquire shares of a bank located in this State pursuant to this chapter."

Section 3. Amend Title 5, Delaware Code, by redesignating the existing Chapter 9 as Subchapter I of Chapter 9 entitled "General Provisions".

Section 4. Amend Title 5, Delaware Code, by adding to Chapter 9 a new Subchapter II as follows:

"Subchapter II. Bank Revolving Credit

**§941. Definitions**

As used in this subchapter:

(a) 'Bank' means any bank or bank and trust company organized under this Code or any other law or laws of this State and any such depository institution organized under the authority of the United States and having its principal place of business in this State.

(b) 'Borrower' means any corporation, partnership, association, government or governmental subdivision or agency, trust, individual or other entity.

(c) 'Individual borrower' means a borrower who is a natural person borrowing for personal, household or family purposes.

(d) 'Revolving credit plan' or 'plan' means a plan contemplating the extension of credit under an account governed by an agreement between a bank and a borrower pursuant to which:

(1) The bank permits the borrower and, if the agreement governing the plan so provides, persons acting on behalf of or with authorization from the borrower, from time to time to make purchases and/or to obtain loans by use of a credit device;

(2) The amounts of such purchases and loans are charged to the borrower's account under the revolving credit plan;

(3) The borrower is required to pay the bank the amounts of all purchases and loans charged to such borrower's account under the plan but has the privilege of paying such amounts outstanding from time to time in full or in installments; and

(4) Interest may be charged and collected by the bank from time to time on the outstanding unpaid indebtedness under such plan.

(e) 'Purchases' mean payments for property of whatever nature, real or personal, tangible or intangible, and payments for services, licenses, taxes, official fees, fines, private or governmental obligations, or any other thing of value.

(f) 'Loans' mean cash advances or loans to be paid to or for the account of the borrower.

(g) 'Credit device' means any card, check, identification code or other means of identification contemplated by the agreement governing the plan.

(h) 'Outstanding unpaid indebtedness' means on any day an amount not in excess of the total amount of purchases and loans charged to the borrower's account under the plan which is outstanding and unpaid at the end of the day, after adding the aggregate amount of any new purchases and loans charged to the account as of that day and deducting the aggregate amount of any payments and credits applied to that indebtedness as of that day and, if the agreement governing the plan so provides, may include the amount of any interest and additional charges, including late or delinquency charges, which have accrued in the account and which are unpaid at the end of the day.

**§942. Extension of Credit under Revolving Credit Plan**

Any bank may, subject to any limitations on lending authority contained in its charter or otherwise imposed by law and subject to the other provisions of this subchapter, offer and extend credit under a revolving credit plan to a borrower and in connection therewith may charge and collect the interest and other charges permitted by this subchapter and may take such security as collateral in connection therewith as may be acceptable to the bank. Without limitation of the foregoing, credit may be extended under a revolving credit plan by a bank's acquisition of obligations arising out of the honoring by a merchant, a bank or other financial institution (whether chartered or organized under the laws of this or any other state, the District of Columbia, the United States or any district, territory or possession of the United States, or any foreign country), or a government or governmental subdivision or agency of a credit device made available to a borrower under a plan, whether directly or indirectly by means of telephone, point of sale terminal, automated teller machine or other electronic or similar device or through the mails.

**§943. Interest**

A bank may charge and collect interest under a revolving credit plan on outstanding unpaid indebtedness in the borrower's account under the plan at such daily, weekly, monthly, annual or other periodic percentage rate or rates as the agreement governing the plan provides or as established in the manner provided in the agreement governing the plan. If the applicable periodic percentage rate under the agreement governing the plan is other than daily, interest may be calculated on an amount not in excess of the average of outstanding unpaid indebtedness for the

applicable billing period, determined by dividing the total of the amounts of outstanding unpaid indebtedness for each day in the applicable billing period by the number of days in the billing period. If the applicable periodic percentage rate under the agreement governing the plan is monthly, a billing period shall be deemed to be a month or monthly if the last day of each billing period is on the same day of each month or does not vary by more than four days therefrom.

**§944. Variable Rates**

If the agreement governing the revolving credit plan so provides, the periodic percentage rate or rates of interest under such plan may vary in accordance with a schedule or formula. Such periodic percentage rate or rates may vary from time to time as the rate determined in accordance with such schedule or formula varies and such periodic percentage rate or rates, as so varied, may be made applicable to all outstanding unpaid indebtedness under the plan on or after the effective date of such variation including any such indebtedness arising out of purchases made or loans obtained prior to such variation in the periodic percentage rate or rates.

**§945. Additional Charges**

In addition to or in lieu of interest at a periodic percentage rate or rates as provided in §§943 and 944 of this subchapter, a bank may, if the agreement governing the revolving credit plan so provides, charge and collect one or more of the following:

- (1) A daily, weekly, monthly, annual or other periodic charge in such amount or amounts as the agreement may provide for the privileges made available to the borrower under the plan;
- (2) A transaction charge or charges in such amount or amounts as the agreement may provide for each separate purchase or loan under the plan; and
- (3) A minimum charge for each daily, weekly, monthly, annual or other scheduled billing period under the plan during any portion of which there is an outstanding unpaid indebtedness under the plan.

**§946. Purchases and Loans - Differing Terms**

A bank may, if the agreement governing a revolving credit plan so provides, impose different terms (including, without limitation, the terms governing the periodic percentage rate or rates used to calculate interest, the method of computing the outstanding unpaid indebtedness to which such rate or rates are applied, the amounts of other charges and the applicable installment repayment

schedule) in respect of indebtedness arising out of purchases and indebtedness arising out of loans made under the plan.

**\$947. Overdraft Accounts**

If credit under a revolving credit plan is offered and extended in connection with a demand deposit account or other transaction account maintained by the borrower with the bank pursuant to an agreement or arrangement whereby the bank agrees to honor checks, drafts or other debits to such account, which if paid would create or increase a negative balance in such account, by making extensions of credit to such borrower under such revolving credit plan, any charges customarily imposed by the bank under the terms governing such demand deposit or other transaction account in the absence of any associated revolving credit plan (including, without limitation, check charges, monthly maintenance charges, checkbook charges, charges for checks drawn on funds in excess of an available line of credit and other similar charges) may continue to be imposed on such account without specific reference thereto or incorporation thereof by reference in the agreement governing the revolving credit plan and the amount of any such charge, to the extent the balance in such demand deposit or other transaction account is insufficient to pay such a charge, may be charged to the borrower's account under the plan as a loan thereunder and may be included in outstanding unpaid indebtedness in accordance with the terms of the agreement governing such revolving credit plan.

**\$948. Omitted installments.**

A bank may at any time and from time to time unilaterally extend to a borrower under a revolving credit plan the option of omitting monthly installments.

**\$949. Insurance.**

(a) A bank may request but not require an individual borrower to be insured in respect of a revolving credit plan under a life, health, accident, health and accident or other credit or other permissible insurance policy, whether group or individual, and in the event that an individual borrower's outstanding unpaid indebtedness under the plan is secured by an interest in real or personal property, a bank may require the borrower to obtain insurance, from an insurer acceptable to the bank, against loss of or damage to such property, or against the liability arising out of the ownership or use of the property and may finance the premiums for such insurance.

(b) In the case of a borrower borrowing under a revolving credit plan for other than personal, household or family purposes, a bank may require the borrower to obtain insurance, from an insurer acceptable to the bank, under a life, health, accident, health and accident or other credit or other permissible insurance policy, whether group or individual, and in the event that the borrower's outstanding unpaid indebtedness under the plan is secured by an interest in real or personal property, the bank may require the borrower to obtain insurance, from an insurer acceptable to the bank, against loss of or damage to such property, or against the liability arising out of the ownership or use of the property and may finance the premiums for such insurance.

(c) The offer and placement of insurance under this section shall be subject in all respects to the applicable provisions of Title 18 of this Code.

**§950. Delinquent installments.**

If the agreement governing a revolving credit plan so provides, a bank may, in the case of a non-individual borrower, charge a higher periodic percentage rate or rates of interest on outstanding unpaid installment payments or portions thereof under the plan which are in default, and, in the case of any borrower, impose a late or delinquency charge upon such installment payments or portions thereof; provided, however, that no more than one such late or delinquency charge may be imposed in respect of any single such installment payment or portion thereof regardless of the period during which it remains in default and provided further, however, that for the purpose only of the preceding proviso all payments by the borrower shall be deemed to be applied to satisfaction of installment payments in the order in which they become due.

**§951. Attorney's fees; collection costs.**

In the event a borrower defaults under the terms of a plan and the bank refers the borrower's account to an attorney (not a regularly salaried employee of the bank) for collection, the bank may, if the agreement governing the revolving credit plan so provides, charge and collect from the borrower a reasonable attorney's fee and, in addition, if the agreement governing the revolving credit plan so provides, the bank may recover from the borrower all court or other collection costs actually incurred by the bank in connection with a collection proceeding.

**§952. Changes in terms.**

(a) A bank may, if the agreement governing a revolving credit plan so provides, at any time or from time to time amend the terms of such agreement

(including, without limitation, the terms governing the periodic percentage rate or rates used to calculate interest, the method of computing the outstanding unpaid indebtedness to which such rate or rates are applied, the amounts of other charges and the applicable installment repayment schedule) in accordance with the further provisions of this section.

(b) The bank shall notify each affected borrower of the amendment in the manner set forth in the agreement governing the plan and in compliance with the requirements of the Truth-In-Lending Act [15 U.S.C. §1601 et seq.], and regulations promulgated thereunder, as in effect from time to time, if applicable; provided, however, that if such amendment has the effect of increasing the interest or other charges to be paid by the borrower, the bank shall mail or deliver to the borrower, at least 15 days before the effective date of the amendment, a clear and conspicuous written notice which shall describe the amendment and the existing term or terms of the agreement affected by the amendment and shall also set forth the effective date of the amendment and the pertinent information contemplated by the following provisions of this section. If the amendment has the effect of increasing the interest or other charges to be paid by the borrower, such amendment shall become effective only if the borrower uses the plan after a date specified in the notice which is at least 15 days after the giving of the notice (but which need not be the date the amendment becomes effective) by making a purchase or obtaining a loan, or if the borrower indicates to the bank in writing such borrower's express agreement to the amendment. Any such amendment may become effective as to a particular borrower as of the first day of the billing period during which such borrower so used such borrower's account or so indicated agreement to the amendment. Any borrower who fails to use such borrower's account or so to indicate agreement to an amendment shall be permitted to pay the outstanding unpaid indebtedness in such borrower's account under the plan in accordance with the terms of the agreement governing the plan without giving effect to the amendment.

(c) If the terms of the agreement governing the plan, as originally drawn or as amended pursuant to this section, so provide, any amendment may, on and after the date upon which it becomes effective as to a particular borrower, apply to all then outstanding unpaid indebtedness in the borrower's account under the plan, including any such indebtedness which shall have arisen out of purchases made or loans obtained prior to the effective date of the amendment.

(d) For the purposes of this section, a decrease in the required amount of periodic installment payments shall not be deemed an amendment which has the effect of increasing the interest to be paid by the borrower.

(e) The procedures for amendment by a bank of the terms of a plan to which a borrower other than an individual borrower is a party may, in lieu of the foregoing provisions of this §952, be as the agreement governing the plan may otherwise provide.

**§953. Application of other statutes.**

The provisions of any other law of this State limiting the rate or amount of interest, discount, points, finance charges, service charges, or other charges which may be charged, taken, collected, received, or reserved shall not apply to extensions of credit under a revolving credit plan operated in accordance with this subchapter.

**§954. Non-exclusivity; severability; captions.**

(a) The provisions of this subchapter are not exclusive and a bank may at its option elect to extend credit either pursuant to this subchapter or as otherwise permitted by applicable law.

(b) If any provision of this subchapter is held invalid, such invalidity shall not affect any other provisions or applications of this subchapter which can be given effect without the invalid provision.

(c) Section headings and captions contained in this subchapter are inserted only as a matter of convenience and for reference and do not, and shall not be construed to, define, limit, extend or describe the scope of the provisions of this subchapter or the meaning or intent of any section hereof."

Section 5. Amend Title 5, Delaware Code, by adding to Chapter 9 a new Subchapter III as follows:

**"Subchapter III. Bank Closed End Credit.**

**§961. Definitions.**

As used in this subchapter:

(a) 'Bank', 'borrower' and 'individual borrower' have the meanings given in subchapter II of this chapter.

(b) 'Closed End Credit' means the extension of credit by a bank to a borrower pursuant to an arrangement or agreement which is not a revolving credit plan as defined in subchapter II of this chapter.

(c) 'Loan' means any single extension of closed end credit.



**§962. Extension of closed end credit.**

Any bank may, subject to any limitations on lending authority contained in its charter or otherwise imposed by law and subject to the other provisions of this subchapter, offer and extend closed end credit to a borrower and in connection therewith may charge and collect the interest and other charges permitted by this subchapter and may take such security as collateral in connection therewith as may be acceptable to the bank.

**§963. Interest.**

A bank may charge and collect interest in respect of a loan at such daily, weekly, monthly, annual or other periodic percentage rate or rates as the agreement governing, or the bond, note or other evidence of, the loan provides or as established in the manner provided in such agreement, bond, note or other evidence of the loan and may calculate such interest by way of simple interest or such other method as the agreement governing, or the bond, note or other evidence of, the loan provides. If the interest is precomputed it may be calculated on the assumption that all scheduled payments will be made when due. For purposes hereof, a year may but need not be a calendar year and may be such period of from 360 to 366 days, including or disregarding leap year, as the bank may determine.

**§964. Variable rates.**

If the agreement governing, or the bond, note or other evidence of, the loan so provides, the periodic percentage rate or rates of interest charged and collected in respect of the loan may, if the interest is not precomputed and taken in advance, vary in accordance with a schedule or formula. Such periodic percentage rate or rates may vary from time to time as the rate determined in accordance with such schedule or formula varies and such periodic percentage rate or rates, as so varied, may be made applicable to any or all outstanding and unpaid amounts of such loan on and after the effective date of such variation. This section shall not be construed to limit the authority of a bank to charge and collect interest in respect of a loan in the manner and at the rate or rates authorized in any other section of this subchapter.

**§965. Additional charges.**

In addition to or in lieu of interest at a periodic percentage rate or rates permitted by §§ 963 and 964 of this subchapter, a bank may charge and collect, in respect of a loan:

(1) Loan fees, points, finders fees and other front-end and periodic charges; provided, however, that in the case of a loan to an individual borrower, no such front-end or periodic charge may be charged and collected unless the agreement governing, or the bond, note or other evidence of, the loan so provides:

(2) Reasonable fees for services rendered or for reimbursement of expenses incurred in good faith by the bank or its agents in connection with such loan, including, without limitation, commitment fees, official fees and taxes, premiums or other charges for any guarantee or insurance protecting the bank against the borrower's default or other credit loss, or costs incurred by reason of examination of title, inspection, recording and other formal acts necessary or appropriate to the security of the loan, filing fees, attorneys' fees, and travel expenses; provided, however, that in the case of a loan to an individual borrower, no such fee may be charged and collected unless the agreement governing, or the bond, note or other evidence of, the loan so provides.

**§966. Deferred installments.**

A bank may at any time or from time to time permit a borrower to defer installment payments of a loan and may, in connection with such deferral, charge and collect deferral charges and may also require payment by such borrower of the additional cost to the bank of premiums for continuing in force, until the end of such period of deferral, any insurance coverage provided in connection with the loan pursuant to §967 of this subchapter.

**§967. Insurance.**

(a) A bank may request but not require an individual borrower to be insured in respect of a loan under a life, health, accident, health and accident or other credit or other permissible insurance policy, whether group or individual, and in the event that a loan to an individual borrower is secured by an interest in real or personal property, the bank may require the borrower to obtain insurance, from an insurer acceptable to the bank, against loss of or damage to such property, or against the liability arising out of the ownership or use of the property and may finance the premiums for such insurance.

(b) In the case of a borrower borrowing for other than personal, household or family purposes, a bank may require the borrower to obtain insurance, from an insurer acceptable to the bank, under a life, health, accident, health and accident or other credit or other permissible insurance policy, whether group or individual,

and in the event that the borrower's loan is secured by an interest in real or personal property, the bank may require the borrower to obtain insurance, from an insurer acceptable to the bank, against loss of or damage to such property, or against the liability arising out of the ownership or use of the property and may finance the premiums for such insurance.

(c) The offer and placement of insurance under this section shall be subject in all respects to the applicable provisions of Title 18 of this Code.

**§968. Delinquent installments.**

If the agreement governing a loan so provides, a bank may, in the case of a non-individual borrower, charge a higher periodic percentage rate or rates of interest on outstanding unpaid installment payments or portions thereof under the loan which are in default, and, in the case of any borrower, impose a late or delinquency charge upon such installment payment or portion thereof; provided, however, that in the case of a loan to an individual borrower, no such late or delinquency charge may be charged or imposed unless the agreement governing, or the bond, note or other evidence of, the loan so provides and that no more than one such late or delinquency charge may be imposed in respect of any single such installment payment or portion thereof regardless of the period during which it remains in default, and provided further, however, that for the purpose only of the proceeding proviso all payments by the borrower shall be deemed to be applied to satisfaction of installment payments in the order in which they become due.

**§969. Prepayment.**

(a) An individual borrower may prepay a loan in full at any time.

(b) If interest charged pursuant to §963 of this subchapter in respect of a loan to an individual borrower has been precomputed and taken in advance, then, in the event of prepayment of the entire indebtedness, the bank shall refund to such borrower the unearned portion of the precomputed interest charge. This refund shall be in an amount not less than the amount which would be refunded if the unearned precomputed interest charge were calculated in accordance with the actuarial method, except that the borrower shall not be entitled to a refund which is less than five dollars. The unearned portion of the precomputed interest charge is, at the option of the bank, either:

(1) That portion of the precomputed interest charge which is allocable to

all originally scheduled or, if deferred, all deferred payment periods, or portions thereof, ending subsequent to the date of prepayment. The unearned precomputed interest charge is the total of that which would have been earned for each such period, or portion thereof, had the loan not been precomputed, by applying to unpaid balances of principal, according to the actuarial method, an annual percentage rate based on the precomputed interest charges, assuming that all payments were made as scheduled, or as deferred, if deferred. The bank, at its option, may round this annual percentage rate to the nearest one-quarter of one percent; or

(2) The total precomputed interest charge less the earned precomputed interest charge. The earned precomputed interest charge shall be determined by applying an annual percentage rate based on the total precomputed interest charge, under the actuarial method, to the unpaid balances for the actual time those balances were unpaid up to the date of prepayment.

(c) As used in subsection (b) of this section:

(1) 'Actuarial method' means the method of allocating payments made on a loan between the outstanding balance of the loan and interest pursuant to which a payment is applied first to the accumulated interest and any remainder is subtracted from the outstanding balance of the loan.

(2) 'Precomputed interest charge' means interest as computed by the add-on, discount or other similar method.

(3) 'Payment period' means the time period within which periodic installment payments of a loan are due as provided in the agreement governing, or the bond, note or other evidence of, the loan.

(d) If a charge was made to an individual borrower for premiums for insuring such borrower under an insurance policy pursuant to §967 of this subchapter, then, in the event of prepayment, the bank shall refund to such borrower the excess of the charge to such borrower therefor over the premiums paid or payable to the bank, if such premiums were paid or payable by the bank periodically, or the refund for such insurance premium received or receivable by the bank, if such premium was paid or payable in a lump sum by the bank, provided that no such refund shall be required if it amounts to less than five dollars.

(e) In connection with any prepayment of any loan by an individual borrower, the bank may not impose any prepayment charge, except that in the case of a residential mortgage loan, the bank may charge and collect any prepayment

penalty or charge specified in the agreement governing, or the bond, note or other evidence of, the loan.

(f) The terms of prepayment of any loan made to a borrower other than an individual borrower shall be as the bank and the borrower may agree.

**§970. Refinancing.**

(a) An individual borrower may, with the consent of the bank, refinance the entire outstanding and unpaid amount of a loan, and the bank may charge and collect a refinancing charge in connection with any such refinancing.

(b) For the purposes of this section, the entire outstanding and unpaid amount of a loan shall be deemed to be:

(1) If the interest and charges in respect of the loan were not taken in advance, the total of the unpaid balance and the accrued and unpaid interest and charges on the date of refinancing; or

(2) If the interest and charges on the loan were precomputed and taken in advance, the amount which the borrower would have been required to pay upon prepayment on the date of refinancing pursuant to §969 of this subchapter governing refund upon prepayment.

**§971. Attorneys fees; collection costs**

(a) In the event an individual borrower defaults under the terms of a loan and the bank refers such borrower's account to an attorney (not a regularly salaried employee of the bank) for collection, the bank may, if the agreement governing, or the bond, note, or other evidence of, the loan so provides, charge and collect from the borrower a reasonable attorney's fee and, in addition, if the agreement governing, or the bond, note or other evidence of, the loan so provides, the bank may recover from the borrower all court and other collection costs actually incurred by the bank in connection with a collection proceeding.

**§972. Loans to non-individual borrowers**

This subchapter shall not be deemed to prohibit a bank, in connection with a loan to other than an individual borrower, from:

(1) Extending or deferring the scheduled payment of all or any portion of any installment or installments payable under such loan;

(2) Permitting prepayment or refinancing of such loan in whole or in part;

(3) Charging and collecting any charges in connection with the matters referred to in paragraphs (1) and (2) of this section; or

(4) Charging and collecting late or delinquency charges, attorneys' fees or collection charges.

**§973. Applicability of other statutes**

The provisions of any other law of this State limiting the rate or amount of interest, discount, points, finance charges, service charges or other charges which may be charged, taken, collected, received or reserved shall not apply to extensions of credit made in accordance with this subchapter.

**§974. Non-exclusivity; severability; captions**

(a) The provisions of this subchapter are not exclusive and a bank may at its option elect to extend credit either pursuant to this subchapter or as otherwise permitted by applicable law.

(b) If any provision of this subchapter is held invalid, such invalidity shall not affect any other provisions or applications of this subchapter which can be given effect without the invalid provision.

(c) Section headings and captions contained in this subchapter are inserted only as a matter of convenience and for reference and do not, and shall not be construed to, define, limit, extend or describe the scope of the provisions of this subchapter or the meaning or intent of any section hereof."

Section 6. Amend Section 1101, Title 5, Delaware Code, by striking the period at the end thereof and adding the following:

"and by the net income shown on the books of account of any non-United States branch office established pursuant to Section 771 of this chapter in the case of a bank or trust company or established pursuant to federal law in the case of a national bank, provided that at least 80 percent of the gross income of such non-United States branch office constitutes 'income from sources without the United States' as defined under Section 862(a) of the Internal Revenue Code of 1954 as amended or any successor provisions thereto."

Section 7. Amend Section 1105, Title 5, Delaware Code, by striking such section in its entirety and substituting in lieu thereof the following:

**"§1105. Rate of taxation**

The rate of tax upon the net income as defined in this chapter of banks, trust companies and national banks shall be as follows: 8.7% of the amount of

net income not in excess of \$20,000,000; 6.7% of the amount of net income in excess of \$20,000,000 but not in excess of \$25,000,000; 4.7% of the amount of net income in excess of \$25,000,000 but not in excess of \$30,000,000; 2.7% of the amount of net income in excess of \$30,000,000."

Section 8. Amend Section 2108, Title 5, Delaware Code, by deleting such section in its entirety and substituting in lieu thereof the following:

"§2108. Requirements as to Loans, Interest and other Charges and Terms; Deferements, Prepayments and Refinancing

(a) The holder of any certificate of registration from the State Bank Commissioner, granted pursuant to this chapter, and any state bank or trust company organized under this Code or any other laws of this State, or any national bank (without obtaining such certificate of registration) may lend money to any person, firm or corporation in any sum not exceeding \$500, to be repaid in periodic installments, taking the obligation of the borrower therefore, with any security that may be acceptable to the lender. Any such association, firm, partnership or corporation having a paid-in capital which is not subject to withdrawal and which shall exceed \$10,000, may make such loans in amounts to any one borrower in excess of \$500, but not exceeding 10% of the paid-in capital stock and surplus of such lender. Loan repayments may be in weekly, monthly or other periodic installments, with the right of the lender to declare the entire unpaid balance due and payable in the event of default in the payment of any installment for a period of 30 days. On any loan made pursuant to this section, the lender may charge and collect interest in respect thereof at such daily, weekly, monthly, annual or other periodic percentage rate or rates and may calculate such interest by way of simple interest or such other method as the agreement governing the loan provides. No charge in addition to such interest may be imposed except as hereinafter in this section provided.

(b) On any loan made pursuant to this section, the lender may at any time or from time to time permit a borrower to defer installment payments of the loan and may, in connection with such deferral, charge and collect deferral charges and may also require payment by such borrower of the additional cost to the lender of premiums for continuing in force, until the end of such period of deferral, any insurance coverage provided in connection with the loan pursuant to subsection (d) of this section.

(c) A lender may impose a delinquency charge upon all or any portion of any installment or installments payable under a loan made pursuant to this section which is or are in default for a period not less than 10 days; provided, however, that no such delinquency charge may be charged or imposed unless the agreement governing the loan so provides and that no more than one such delinquency charge may be imposed in respect of any single such installment payment or portion thereof regardless of the period during which it remains in default, and provided further, that no such delinquency charge may exceed 5% of the amount of any such installment or portion thereof in default.

(d) A borrower may prepay a loan made pursuant to this section in full at any time. If interest in respect of such a loan has been precomputed and taken in advance, then, in the event of prepayment of the entire indebtedness, the lender shall refund to the borrower the unearned portion of the precomputed interest charge. This refund shall be in an amount not less than the amount which would be refunded if the unearned precomputed interest charge were calculated in accordance with the actuarial method, except that the borrower shall not be entitled to a refund which is equal to or less than one dollar. The unearned portion of the precomputed interest charge is, at the option of the lender, either:

(1) That portion of the precomputed interest charge which is allocable to all originally scheduled or, if deferred, all deferred payment period, or portions thereof, ending subsequent to the date of prepayment. The unearned precomputed interest charge is the total of that which would have been earned for each of such period, or portion thereof, had the loan not been precomputed, by applying to unpaid balances of principal, according to the actuarial method, an annual percentage rate based on the precomputed interest charges, assuming that all payments were made as scheduled, or as deferred, if deferred. The lender, at its option, may round this annual percentage rate to the nearest one-quarter of one percent; or

(2) The total precomputed interest charge less the earned precomputed interest charge. The earned precomputed interest charge shall be determined by applying an annual percentage rate based on the total precomputed interest charge, under the actuarial method, to the



unpaid balances for the actual time those balances were unpaid up to the date of prepayment.

(e) As used in subsection (d) of this section:

(1) 'Actuarial method' means the method of allocating payments made on a loan between the outstanding balance of the loan and interest pursuant to which a payment is applied first to the accumulated interest and any remainder is subtracted from the outstanding balance of the loan.

(2) 'Precomputed interest charge' means interest as computed by the add-on, discount or other similar method.

(3) 'Payment period' means the time period within which periodic installment payments of a loan are due as provided in the agreement governing the loan.

(f) In connection with any prepayment of a loan made pursuant to this section, the lender may not impose any prepayment charge.

(g) Borrower may, with the consent of the lender, refinance the entire outstanding and unpaid amount of a loan made pursuant to this section, and the lender may charge and collect a refinancing charge in connection with any such refinancing. For the purposes of this section, the entire outstanding and unpaid amount of a loan shall be deemed to be:

(1) If the interest in respect of the loan was not taken in advance, the total of the unpaid balance and the accrued and unpaid interest and charges on the date of refinancing; or

(2) If the interest on the loan was precomputed and taken in advance, the amount which the borrower would have been required to pay, disregarding any prepayment charge, upon prepayment on the date of refinancing pursuant to subsection (d) of this section governing refund upon prepayment.

(h) In the event a borrower defaults under the terms of a loan made pursuant to this section and the lender refers such borrower's account to an attorney (not regularly salaried employee of the lender) for collection, the lender may, if the agreement governing the loan so provides, charge and collect from the borrower a reasonable attorney's fee and, in addition, if the agreement governing the loan so provides, the lender may recover all court and other collection costs actually incurred by the lender in connection with a collection proceeding."

Section 9. Amend Section 2109, Title 5, Delaware Code, by deleting such section in its entirety.

Section 10. Amend Section 2111, Title 5, Delaware Code, by deleting subsection (c) thereof in its entirety and substituting in lieu thereof the following:

"(c) In any action for the recovery or repayment of the amount loaned under this chapter the lender shall be entitled to recover the unpaid principal amount of the loan together with pre-judgment and post-judgment interest at the rate or rates specified in the agreement governing the loan."

Section 11. Amend Section 2906(h), Title 5, Delaware Code, by deleting the word "\$5" in the first sentence thereof and substituting in lieu thereof "\$15".

Section 12. Amend Section 2907, Title 5, Delaware Code, by deleting such section in its entirety and substituting in lieu thereof the following:

"§2907. Finance Charge

(a) A retail seller or the holder of a retail installment contract may charge and collect a finance charge in respect of a retail installment transaction and may calculate such finance charge in the manner and at the rate or rates specified in the contract governing the retail installment transaction.

(b) Any sales finance company may purchase or acquire or agree to purchase or acquire from any seller any contract on such terms and conditions as may be agreed upon between them. Filing of the assignment, notice to the buyer of the assignment, and any requirement that the holder maintain dominion over the payments or the motor vehicle if repossessed shall not be necessary to the validity of a written assignment of a contract as against creditors, subsequent purchasers, pledgees, mortgagees and lien claimants of the seller. Unless the buyer has notice of the assignment of his contract, payment thereunder made by the buyer to the last known holder of such contract shall be binding upon all subsequent holders."

Section 13. Amend Sections 2908 and 2909, Title 5, Delaware Code, by deleting such sections in their entirety and substituting in lieu thereof the following:

"§2908. Prepayment

(a) A buyer may prepay the debt due under a retail installment contract in full at any time.

(b) If the finance charge imposed pursuant to §2907 of this chapter in respect of a retail installment transaction has been precomputed and taken in advance, then, in the event of prepayment of the entire indebtedness, the holder shall refund

to the buyer the unearned portion of the precomputed finance charge. This refund shall be in an amount not less than the amount which would be refunded if the unearned precomputed finance charge were calculated in accordance with the actuarial method, provided that the buyer shall not be entitled to a refund which results in a net minimum finance charge of less than \$25, and provided further that the holder shall not be required to refund the unearned portion of the finance charge if such amount is less than one dollar. The unearned portion of the precomputed finance charge is, at the option of the holder, either:

(1) That portion of the precomputed finance charge which is allocable to all originally scheduled or, if deferred, all deferred payment periods, or portions thereof, ending subsequent to the date of prepayment. The unearned precomputed finance charge is the total of that which would have been earned for each such period, or portion thereof, had the debt due under the contract not been precomputed, by applying to unpaid balances of principal, according to the actuarial method, an annual percentage rate based on the precomputed finance charge, assuming that all payments were made as scheduled, or as deferred, if deferred. The holder, at its option, may round this annual percentage rate to the nearest one-quarter of one percent; or

(2) The total precomputed finance charge less the earned precomputed finance charge. The earned precomputed finance charge shall be determined by applying an annual percentage rate based on the total precomputed finance charge, under the actuarial method, to the unpaid balances for the actual time those balances were unpaid up to the date of prepayment.

(c) As used in subsection (b) of this section:

(1) 'Actuarial method' means the method of allocating payments made on a debt due under a retail installment contract between the outstanding balance of the indebtedness and the finance charge pursuant to which a payment is applied first to the accumulated finance charge and any remainder is subtracted from the outstanding balance of the indebtedness.

(2) 'Payment period' means the time period within which periodic installment payments of the indebtedness are due under the terms of a retail installment contract.

(d) If a charge was made to buyer for premiums for insurance in respect of a retail installment transaction, then, in the event of prepayment, the holder shall

refund to such buyer the excess of the charge to such buyer therefor over the premiums paid or payable to the holder, if such premiums were paid or payable by the holder periodically, or the refund for such insurance premium received or receivable by the holder, if such premium was paid or payable in a lump sum by the holder, provided that no such refund shall be required if it amounts to less than one dollar.

(e) In connection with any prepayment of a debt due under a retail installment contract by a buyer, the holder may not impose any prepayment charge.

**§2909. Deffered installments**

A holder may at any time or from time to time permit a buyer to defer installment payments due under the terms of a retail installment contract and may, in connection with such deferral, charge and collect deferral charges and may also require payment by such buyer of the additional cost to the holder of premiums for continuing in force, until the end of such period of deferral, any insurance coverage provided in connection with the contract."

Section 14. Amend Section 3121, Title 5, Delaware Code, by deleting such section in its entirety and substituting in lieu thereof the following:

**"§3121. Interest**

A licensee may charge and collect interest in respect of a secondary mortgage loan at such daily, weekly, monthly, annual or other periodic percentae rate or rates and may calculate such interest by way of simple interest or such other method as the agreement governing the loan provides."

Section 15. Amend Section 3125, Title 5, Delaware Code, by deleting such section in its entirety and substituting in lieu thereof the following:

**"3125. Prepayment**

(a) A borrower may prepay a secondary mortgage loan in full at any time.

(b) If interest charged pursuant ot §3121 of this chapter in respect of a secondary mortgage loan has been precomputed and taken in advance, then in the event of prepayment of the entire indebtedness, the licensee shall refund to such borrower the unearned portion of the precomputed interest charge. This refund shall be in a amount not less than the amount which would be refunded if the unearned precomputed interest charge were calculated in accordance with the actuarial method, except that the borrower shall not be entitled to a refund which is less than one dollar. The unearned portion of the precomputed interest charge is, at the option of the licensee, either:

(1) That portion of the precomputed interest charge which is allocable to all originally scheduled or, if deferred, all deferred payment periods, or portion thereof, ending subsequent to the date of prepayment. The unearned precomputed interest charge is the total of that which would have been earned for each such period, or portion thereof, had the loan not been precomputed, by applying to unpaid balances of principal, according to the actuarial method, an annual percentage rate based on the precomputed interest charges, assuming that all payments were made as scheduled, or as deferred, if deferred. The licensee, at its option, may round this annual percentage rate to the nearest one-quarter of one percent; or

(2) The total precomputed interest charge less the earned precomputed interest charge. The earned precomputed interest charge shall be determined by applying an annual percentage rate based on the total precomputed interest charge, under the actuarial method, to the unpaid balances for the actual time those balances were unpaid up to the date of prepayment.

(c) As used in subsection (b) of this section:

(1) 'Actuarial method' means the method of allocating payments made on a secondary mortgage loan between the outstanding balance of the loan and interest pursuant to which a payment is applied first to the accumulated interest and any remainder is subtracted from the outstanding balance of the loan.

(2) 'Precomputed interest charge' means interest as computed by the add-on, discount or other similar method.

(3) 'Payment period' means the time period within which periodic installment payments of a loan are due as provided in the agreement governing the loan.

(d) In connection with any prepayment of a secondary mortgage loan, the licensee may not impose any prepayment charge.

Section 16. Amend Subchapter IV, Chapter 43, Title 6, Delaware Code, by striking Sections 4315, 4317, and 4319, by renumbering Section 4318 as Section 4317, and by inserting a new Section 4315 as follows:

**"4315. Service Charges Authorized**

A retail seller or the holder of a retail installment contract may charge and collect a service charge in respect of a retail installment sale and may calculate such service charge in the manner and at the rate or rates specified in the contract governing the sale."

Section 17. Amend Section 4322, Title 6, Delaware Code, by deleting such section in its entirety and substituting in lieu thereof the following:

**"4322. Prepayment**

(a) A buyer may prepay the debt due under a retail installment contract in full at any time.

(b) If the service charge imposed pursuant to §4315 of this subchapter in respect of a retail installment sale has been precomputed and taken in advance, then, in the event of prepayment of the entire indebtedness, the holder shall refund to such buyer the unearned portion of the precomputed service charge. This refund shall be in an amount not less than the amount which would be refunded if the unearned precomputed service charge were calculated in accordance with the actuarial method, except that the buyer shall not be entitled to a refund which is less than one dollar. The unearned portion of the precomputed service charge is, at the option of the holder, either:

(1) That portion of the precomputed service charge which is allocable to all originally scheduled or, if deferred, all deferred payment periods, or portions thereof, ending subsequent to the date of prepayment. The unearned precomputed service charge is the total of that which would have been earned for each such period, or portion thereof, had the debt due under the retail installment contract not been precomputed, by applying to unpaid balances, according to the actuarial method, an annual percentage rate based on the precomputed service charge, assuming that all payments were made as scheduled, or as deferred, if deferred. The holder, at its option, may round this annual percentage rate to the nearest one-quarter of one percent; or

(2) The total precomputed service charge less the earned precomputed service charge. The earned precomputed service charge shall be determined by applying an annual percentage rate based on the

total precomputed service charge, under the actuarial method, to the unpaid balances for the actual time those balances were unpaid up to the date of prepayment.

(c) As used in subsection (b) of this section:

(1) 'Actuarial method' means the method of allocating payments made on a debt due under a retail installment contract between the outstanding balance of the indebtedness and the service charge pursuant to which a payment is applied first to the accumulated service charge and any remainder is subtracted from the outstanding balance of the indebtedness.

(2) 'Payment period' means the time period within which periodic installment payments of the indebtedness are due under the terms of a retail installment contract.

(d) If a charge was made to a buyer for premiums for insuring such buyer in respect of a retail installment contract, then, in the event of prepayment, the holder shall refund to such buyer the excess of the charge to such buyer therefor over the premiums paid or payable to the holder, if such premiums were paid or payable by the holder periodically, or the refund for such insurance premium received or receivable by the holder if such premium was paid or payable in a lump sum by the holder, provided that no such refund shall be required if it amounts to less than one dollar.

(e) In connection with any prepayment of a debt due under a retail installment contract, a holder may not impose any prepayment charge.

Section 18. Amend Section 4324, Title 5, Delaware Code, by deleting such section in its entirety and substituting in lieu thereof the following:

**§4324. Deferred Installments**

A holder may at any time or from time to time permit a buyer to defer installment payments due under the terms of a retail installment contract and may, in connection with such deferral, charge and collect deferral charges and may also require payment by such buyer of the additional cost to the holder of premiums for continuing in force, until the end of such period of deferral, any insurance coverage provided in connection with the contract."

Section 19. Amend Section 4337, Title 6, Delaware Code, by deleting such section in its entirety and substituting in lieu thereof the following:

**§4337. Service Charge**

Subject to the other provisions of this subchapter a retail seller or the holder of a retail installment account may charge and collect a service charge computed on the outstanding unpaid indebtedness in a buyer's retail installment account and may calculate such service charge in the manner and at such daily, weekly, monthly, annual or other periodic percentage rate or rates as the agreement governing retail installment account provides; provided, however, that if the service charge as so computed is less than one dollar for any month, the holder may charge one dollar as a service charge for such month. If the applicable periodic percentage rate under the agreement governing a retail installment account is other than daily, the service charge may be calculated on an amount not in excess of the average of outstanding unpaid indebtedness for the applicable billing period, determined by dividing the total of the amounts of outstanding unpaid indebtedness for each day in the applicable billing period by the number of days in the billing period. If the applicable periodic percentage rate under the agreement governing the retail installment account is monthly, a billing period shall be deemed to be a month or monthly if the last day of each billing period is on the same day of each month or does not vary by more than four days therefrom."

Section 20. Amend Section 933, Title 5, Delaware Code, by deleting the last two sentences of subsection (a) thereof and substituting in lieu thereof the following:

(a) "Any certificate of authority issued by the Commissioner shall be void and of no effect if after the expiration of a reasonable period of time, as determined by the State Bank Commissioner, such branch is not actually opened for business. The Commissioner shall by regulations prescribe the criteria to be applied in determining what constitutes a reasonable period of time."

Section 21. Amend Section 909, Title 5, Delaware Code, by deleting the words "officers or employees" in subsection (d) thereof, and substituting in lieu thereof the words "executive officers."

Section 22. Delete Section 925, Title 5, Delaware Code, in its entirety.

Section 23. Amend Title 30 of the Delaware Code by adding a new Part VI to read as follows:



"PART VI

Miscellaneous Taxes

**§6301. Definitions**

As used in this chapter:

(a) 'Affiliated finance company' means a corporation substantially all of whose activity within this State is limited to the issuance of commercial paper or other debt obligations and use of the proceeds to make loans to one or more of its affiliated corporations or to purchase receivables from one or more of its affiliated corporations.

(b) 'Affiliated corporations' means two or more corporations which are members of a controlled group of corporations as defined in Section 1563 of the Internal Revenue Code of 1954.

**§6302. License Requirement**

No corporation shall carry on business as an affiliated finance company after May 1, 1981 without an unexpired license issued by the Secretary of Finance authorizing the conduct of such business. The license shall be issued by the Secretary of Finance for each calendar year. Upon payment of the tax imposed by §6303 of this Title, the Secretary shall issue the license with respect to each calendar year.

**§6303. Imposition of Tax**

The tax payable by an affiliated finance company shall be in accordance with the following table:

If the capital base is:	The annual license fee shall be:
\$0 to \$99,999,999.99	\$10,000
\$100,000,000 to \$224,999,999.99	\$15,000
\$225,000,000 to \$749,999,999.99	\$25,000
Over \$750,000,000	\$50,000

The 'capital base' of an affiliated finance company shall consist of its capital, surplus, and retained earnings, or equivalent accounting terms, as set forth in the company's certified financial statements.

**§6304. Time of payment of Tax**

The tax imposed by §6303 shall be due and payable in a single installment on or before April 30 of the calendar year with respect to which the license is issued or as soon thereafter as the corporation shall commence operations as an affiliated

finance company as shown on its certified financial statements for its fiscal year ending with or within the immediately preceding calendar year.

**§6305. Other State taxes, exemption**

Notwithstanding Title 30, all affiliated finance companies being taxed in accordance with this chapter shall be exempt from any occupational license taxes imposed by Part III of his Title.

**§6306. Administrative Provisions**

(a) The Secretary of Finance may publish license and tax forms required in furtherance of this chapter.

(b) As soon as practical after a license application in connection with any license under this chapter is filed, the Department of Finance shall examine the same and verify the correctness of the computation of the fee payable thereon and ascertain whether or not the amount submitted is the proper fee.

(c) If the Department of Finance discovers from the examination of the license application or otherwise that the license fee is not correct, it may at any time within three years from the expiration date of the license to which the license application relates, assess the amount due on the same and give notice to the person to which the license relates of such assessment; and at the termination of 30 days from the date of such notice, the additional amount due, as determined by the Department of Finance, shall be due and payable unless the person so notified or his agent or attorney shall have, within the aforesaid 30 days, filed with the Secretary of Finance, a protest in writing over his signature from the assessment setting forth the reason for the action. If a written protest is filed, the Secretary or his delegate shall notify the taxpayer of his determination with respect thereto, and such determination shall become final upon the expiration of 30 days from the date such notice is mailed unless the taxpayer, within such 30 day period, files a petition for review with the Tax Appeal Board. If the Secretary or his delegate fails to act on any protest within 90 days from the date such protest was filed, the taxpayer may consider the protest disallowed for purposes of filing a petition with the Tax Appeal Board. The limitation of 3 years to the assessment of such additional amount due shall not apply to the assessment of such additional amounts due upon returns, license applications which are fraudulent, or where no such returns or license applications have been filed.

(d) Any person may submit to the Secretary of Finance a claim for refund of any tax or license fee imposed by this chapter alleged to have been erroneously or illegally assessed or paid or of any interest or penalty alleged to have been collected without authority or of any sum alleged to have been excessive or in any manner wrongfully collected from such person at any time within 3 years from the expiration date of the license to which such payment relates or 30 days from the date of payment of any such amount, whichever is later. If the Secretary of Finance or his delegate disallows a claim for refund, in whole or in part, he shall notify the taxpayer of such disallowance. Such determination shall become final upon the expiration of 30 days from the date such notice was mailed unless within such 30 day period the taxpayer files a written protest with the Secretary of Finance or his delegate stating the reasons for his objection to the determination. If a written protest is filed, the Secretary or his delegate shall notify the taxpayer of his determination with respect thereto, and such determination shall become final upon the expiration of 30 days from the date such notice is mailed unless the taxpayer, within such 30 day period, files a petition for review with the Tax Appeal Board. If the Secretary or his delegate fails to act on any claim for refund within 90 days from the date such claim was filed, the taxpayer may consider the claim disallowed for purposes of filing a petition with the Tax Appeal Board.

(e) Failure to pay the taxes required under this chapter when due shall subject the taxpayer to a liability for interest at the rate of one percent per month on the principal amount due and, unless abated by the Secretary of Finance, a civil penalty of five percent per month upon the principal amount due up to a maximum total penalty of one hundred percent of the principal amount due and payable. Interest on overpayments of such taxes shall accrue at the rate of one percent per month or fraction thereof, such accrual commencing with the 46th day after the taxpayer files a claim for refund of such overpaid taxes.

Section 24. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable, except that the severability provision set forth in §808 of Chapter 8 of Title 5 of the Delaware Code as set forth in Section 2 of this Act shall control as to the severability and continued effectiveness of the provisions of said Chapter 8 of Title 5 of the Delaware Code.

Section 25. Sections 1 through 7, inclusive, and 20 through 24, inclusive, of this Act shall take effect immediately upon its adoption. Sections 8 through 19, inclusive of this Act shall become effective on June 1, 1981.

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3354A



Representative Derrickson  
 Senator Cordrey; Reps.  
 Powell, Sincock, Petrilli,  
 Burris, Fallon, Edwards,  
 Cozzz, Cathcart,  
 Harrington, Spence,  
 Barnes, Buckworth, Ennis,  
 Roy, Plant, George,  
 Bennett, Anderson, Dixon,  
 Jonkiert, Soles, Jester,  
 Holloway; Sens. Berndt,  
 Fair, Cook, Hughes, Neal,  
 Holloway, Murphy, Knox,  
 Arnold, Citro, Littleton,  
 Adams

HOUSE OF REPRESENTATIVES

131ST GENERAL ASSEMBLY

HOUSE BILL NO. 29

FEB 18 1981

63

3

AN ACT TO AMEND CHAPTER 7 OF TITLE 5 OF THE DELAWARE CODE BY ESTABLISHING THE NUMBER AND QUALIFICATIONS OF PERSONS REQUIRED TO FORM A BANK OR TRUST COMPANY CONTROLLED BY AN OUT-OF-STATE BANK HOLDING COMPANY; BY PROVIDING FOR THE ISSUANCE OF REGULATIONS BY THE BANK COMMISSIONER ESTABLISHING REASONABLE TIMES FOR THE STARTUP OF A BANK OR TRUST COMPANY OR THE OPENING OF A BRANCH; BY AMENDING THE REQUIREMENTS REGULATING THE PERCENTAGE OF A BANK'S CAPITAL, SURPLUS AND UNDIVIDED PROFITS WHICH MAY BE INVESTED IN REAL ESTATE; BY DELETING FROM SECTION 764 (b) A REFERENCE WHICH IS NO LONGER APPLICABLE; BY PROVIDING THAT NO LETTER OF CREDIT SHALL BE CONSTRUED AS A GUARANTEE; AND BY AUTHORIZING THE ESTABLISHMENT OF BRANCH OFFICES WITHOUT THE STATE OF DELAWARE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE, TWO-THIRDS OF ALL MEMBERS ELECTED TO EACH HOUSE THEREOF CONCURRING HEREIN:

1           Section 1. Amend Section 722, Title 5, Delaware Code,  
 2 by deleting such section in its entirety and substituting in lieu  
 3 thereof the following:  
 4           "\$722. Incorporators; number and qualifications.  
 5                   Fifteen or more persons being citizens of this  
 6 State and of lawful age who associate themselves by a  
 7 written agreement, hereinafter called 'articles of  
 8 association,' for the purpose of forming a bank or trust  
 9 company may, upon compliance with the provisions of this

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1 chapter, become a corporation, with the powers conferred  
2 by this chapter and subject to the regulations prescribed  
3 by this chapter and subject also to the regulations pre-  
4 scribed for banks and trust companies by any general  
5 statute of this State; provided, however, that the arti-  
6 cles of association of any bank or trust company that, in  
7 the opinion of the Commissioner, is hereafter formed as a  
8 part of a planned acquisition of stock in a bank located  
9 in this State by an out-of-state bank holding company as  
10 defined in §801 of this title shall require the association  
11 of only three persons, two of whom must be citizens and  
12 residents of this State."

13 Section 2. Amend Section 734, Title 5, Delaware Code, by  
14 deleting such section in its entirety and substituting in lieu  
15 thereof the following:

16 "§734. Revocation of Charter for Failure to Commence  
17 Business within a Reasonable Time.

18 Every corporation created under this chapter shall,  
19 after the expiration of a reasonable time from the date  
20 of its incorporation, as determined by the State Bank  
21 Commissioner, be actively engaged in the business for  
22 which it was created or its certificate of incorpor-  
23 ation and corporate franchise shall be deemed and held  
24 to be revoked. The Commissioner shall by regulations  
25 prescribe the criteria to be applied in determining  
26 what constitutes a reasonable period of time."

1                   Section 3. Amend Section 762, Title 5, Delaware  
2 Code, by deleting the words "25 percent of its capital actu-  
3 ally paid in and its surplus account" and substituting therefor  
4 the words "50 percent of its capital, surplus and undivided  
5 profit accounts" in the first sentence thereof and by deleting  
6 the words, "The amount of any mortgage on real estate owned by  
7 the corporation directly or indirectly and in whole or in part  
8 used by it in the transaction of its business, and" from the  
9 second sentence thereof.

10                   Section 4. Amend Section 764(b), Title 5, Delaware  
11 Code, by deleting the words "or to the Reconstruction Finance  
12 Corporation" therefrom.

13                   Section 5. Amend Section 767, Title 5, Delaware  
14 Code, by deleting the period at the end of paragraph (1) of  
15 that section, and adding the following:  
  
16 ", provided that no letter of credit as defined in section  
17 5-103(1)(a) of title 6 and no standby letter of credit as  
18 defined herein shall be construed to fall within the prohi-  
19 bition of this section. As used herein, the term 'standby  
20 letter of credit' includes every letter of credit (or simi-  
21 lar arrangement however named or designated) which represents  
22 an obligation to the beneficiary on the part of the issuer  
23 (i) to repay money borrowed by or advanced to or for the  
24 account of the customer or, (ii) to make payment on account  
25 of any evidence of indebtedness undertaken by the customer,  
26 or (iii) to make payment on account of any default by the  
27 customer in performance of an obligation. The term 'benefi-  
28 ciary,' 'issuer' and 'customer' as used herein have the same  
29 meaning as in section 5-103(a) of title 6."

1           Section 6. Amend Section 770(a), Title 5, Delaware  
2 Code, by deleting the last two sentences thereof and substi-  
3 tuting in lieu thereof the following: "Any certificate of  
4 authority issued by the Commissioner shall be void and of no  
5 effect if after the expiration of a reasonable period of time,  
6 as determined by the State Bank Commissioner, such branch is  
7 not actually opened for business. The Commissioner shall by  
8 regulations prescribe the criteria to be applied in deter-  
9 mining what constitutes a reasonable period of time."

10           Section 7. Amend Chapter 7 of Title 5, Delaware  
11 Code, by inserting a new Section 771 as follows:

12           \*  
13           "§771. Foreign Branch Offices.

14           (a) Any bank or trust company having a paid-in capital  
15 and surplus exceeding One Million Dollars (\$1,000,000) or  
16 more may open branch offices or places of business without  
17 the State of Delaware, in the United States of America, or  
18 its possessions or in foreign countries upon issuance of a  
19 certificate of authority by the State Bank Commissioner and  
20 upon such conditions and under such regulations as he may  
21 prescribe.

22           (b) If any bank or trust company has opened and occu-  
23 pied a branch office in a foreign country pursuant to the  
24 provisions of paragraph (a) of this section, it may, unless  
25 otherwise advised by the State Bank Commissioner, open and  
26 occupy an additional branch office or branch offices in such  
27 country without having to apply for the approval of the  
28 Commissioner provided that it gives the Commissioner notice  
29 of at least thirty (30) days (or such shorter period as he  
30 in individual cases may approve) before opening and occupying  
any such additional branch office.



1           (c) A fee of Five Hundred Dollars (\$500) for the  
2 issuance of each certificate contemplated by subsection (a)  
3 of this section shall be required by the State Bank Commis-  
4 sioner before issuance of such a certificate."

5           Section 8. If any provision of this Act or the  
6 application thereof to any person or circumstance is held  
7 invalid, such invalidity shall not affect other provisions  
8 or applications of the Act which can be given effect without  
9 the invalid provision or application, and to that end the  
10 provisions of this Act are declared to be severable.

11           Section 9. This Act shall take effect immediately  
12 upon its adoption.

#### SYNOPSIS

1. Number and Qualifications of Incorporators

Section 1 of the Bill amends present Section 722 of Title 5 of the Delaware Code by reducing to three the number of persons required to establish a bank or trust company which, in the opinion of the State Bank Commissioner, is formed after the effective date of this Bill as a part of a planned acquisition of stock in a Delaware bank by an out-of-state bank holding company.

2. Reasonable Time for Startup of a Bank or Trust Company or the Opening of a Branch

Sections 2 and 6 together provide that a bank or trust company shall be allowed a "reasonable time," as determined by the State Bank Commissioner, for the startup of business or for the opening of a branch, in lieu of the 6 month period under present law, which time period may be extended by the Commissioner. The Commissioner shall by regulations prescribe the criteria for determining a reasonable time.

3. Real Estate Owned by Banks

Section 3 of the Bill provides that the percentage of capital which a bank or trust company may invest in real estate suitable for the conduct of its business is increased from 25 percent of its capital and surplus to 50 percent of its capital, surplus and undivided profit, and that mortgages on real estate owned by a bank shall not be included in computing this percentage.

4. Deadwood Amendment

Section 4 of the Bill removes an obsolete reference to the "Reconstruction Finance Corporation" contained in Section 764(b) of Title 5.

5. Letters of Credit not to be Construed as Guarantees

Section 5 of the Bill provides that letters of credit and standby letters of credit issued by banks or trust companies shall not be construed as guarantees.

6. Foreign Branch Offices of Banks

Section 7 of the Bill permits any bank or trust company to open branch offices outside the State of Delaware upon issuance of a certificate of authority by the State Bank Commissioner.

Authors: Morris, Nichols, Arsht & Tunnell

ED:NH:SE

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 409 Session of 1981

INTRODUCED BY JUBELIRER, ZEMPRELLI, STAUPFER, MOORE, HELFRICK, FISHER, LYNCH, ROSS AND KUSSE, FEBRUARY 24, 1981

AS REPORTED FROM COMMITTEE ON BUSINESS COMMERCE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 17, 1981

AN ACT

1 Permitting for a limited time amounts in addition to the
2 statutory limits imposed upon certain interest rates, service
3 charges and finance charges upon loans and extensions of
4 credit.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. This act shall be known and may be cited as the
8 "Consumer Access to Credit Act."

9 Section 2. Notwithstanding the provisions of any act to the
10 contrary, including but not limited to the act of January 30,
11 1974 (P.L.13, No.6), referred to as the Loan Interest and
12 Protection Law and the limits heretofore imposed by the
13 following statutes or sections of statutes upon the maximum
14 rates OR AMOUNTS of interest, service charges and finance
15 charges permitted to be charged upon loans and extensions of
16 credit, a creditor or seller is permitted to impose and collect
17 the additional amounts described in section 3 of this act for
18 loans and extensions of credit made during the period commencing

1 with the effective date of this act and ending November 30,  
2 1984:

3 (1) Sections 13 and 17.1 of the act of April 8, 1937  
4 (P.L.262, No.66), known as the "Consumer Discount Company  
5 Act."

6 (2) Section 19 of the act of September 20, 1961  
7 (P.L.1548, No.658), known as the "Credit Union Act."

8 (3) Sections 301 and 307 of the act of August 14, 1963  
9 (P.L.1082, No.464), known as the "Home Improvement Finance  
10 Act."

11 (4) Sections 309, 316, 317, 318 and 506 of the act of ←  
12 November 30, 1965 (P.L.847, No.356), known as the "Banking  
13 Code of 1965."

14 (5) Sections 303(h), 501, ~~and 904~~ 904 AND 906 of the act ←  
15 of October 28, 1966 (1st Sp.Sess., P.L.55, No.7), known as  
16 the "Goods and Services Installment Sales Act."

17 (6) Sections 918, 919 and 920 of the act of December 14,  
18 1967 (P.L.746, No.345), known as the "Savings Association  
19 Code of 1967."

20 (7) Sections 9 and 15 of the act of December 12, 1980  
21 (P.L.1179, No.219), known as the "Secondary Mortgage Loan  
22 Act."

23 (8) Section 19 of the act of June 28, 1947 (P.L.1110,  
24 No.476), known as the "Motor Vehicle Sales Finance Act."

25 (9) Section 12 of the act of April 6, 1937 (P.L.200,  
26 No.51), known as the "Pawnbrokers License Act."

27 Section 3. In transactions entered after the effective date  
28 of this act and prior to its termination, a creditor or seller,  
29 ~~who is authorized to make loans and extend credit under the~~ ←  
30 ~~statutes listed in section 2,~~ may charge interest and service

1 and finance charges in addition to those permitted by the  
2 statutes or sections of statutes listed in CLAUSES (1) THROUGH ←  
3 (9) OF section 2 at an annual rate not in excess of ~~60%~~ 80% of ←  
4 the average of the daily market yields ~~on~~ ADJUSTED TO CONSTANT ←  
5 MATURITIES FOR three-year United States Treasury securities  
6 determined as follows: On or before the 15th day of the month  
7 following the date of approval of this act and the 15th day of  
8 each third month thereafter, the Secretary of Banking shall  
9 announce and promptly thereafter publish in the Pennsylvania  
10 Bulletin the average of the daily market yields and the ~~60%~~ 80% ←  
11 limit ~~on~~ ADJUSTED TO CONSTANT MATURITIES FOR the average on ←  
12 three-year United States Treasury securities, determined by him  
13 through publications of Federal agencies or any other method he  
14 deems reliable, in the three calendar months last preceding the  
15 date of the announcement. SUCH AVERAGE SHALL BE THE MAXIMUM ←  
16 ANNUAL RATE OF THE ADDITIONAL INTEREST, SERVICE OR FINANCE  
17 CHARGE WHICH A CREDITOR OR SELLER MAY COLLECT, SUBJECT TO  
18 SECTION 4, FOR INDEBTEDNESS OUTSTANDING IN A PERIODIC BILLING  
19 CYCLE OF A REVOLVING CREDIT ACCOUNT WHICH BEGINS, OR FOR  
20 INDEBTEDNESS INCURRED AS TO ANY OTHER TYPE OF CREDIT, DURING THE  
21 THREE CALENDAR MONTHS NEXT FOLLOWING THE DATE OF EACH QUARTERLY  
22 ANNOUNCEMENT.

23 Section 4. (a) This act shall not authorize a creditor or  
24 seller to increase the interest rate, service charge or finance  
25 charges or to increase the minimum periodic installment payments  
26 applicable to indebtedness incurred before the effective date of  
27 this act AND SHALL NOT AUTHORIZE AN ISSUER OF A CREDIT CARD ←  
28 WHICH IS PRIMARILY ENGAGED AS A SELLER OR DISTRIBUTOR OF  
29 GASOLINE TO CHARGE ANY AMOUNT OTHER THAN AS PROVIDED BY LAW  
30 BEFORE THE EFFECTIVE DATE OF THIS ACT.

1 (b) A creditor OR SELLER may, at any time and from time to  
2 time, change the interest rate, service charge or finance charge  
3 or the minimum periodic installment payments governing a credit  
4 card or other revolving credit plan as provided in sections 2  
5 and 3. If the interest rate, service charge or finance charge  
6 will decrease as a result of the publication of the three-month  
7 publication of the 60% limit on the average of the daily market  
8 yield on three-year United States Treasury securities, the  
9 creditor or seller shall ~~automatically~~ decrease his interest  
10 rate, service charge or finance charge BEGINNING WITH THE NEXT  
11 PERIODIC BILLING CYCLE to a limit no greater than the published  
12 limit for that particular three-month period. Any decrease shall  
13 apply to all indebtedness incurred from the effective date of  
14 this act to the effective date of the decrease, and shall remain  
15 so until such decrease is amended by a newly published limit by  
16 the Secretary of Banking. If the amendment will increase the  
17 interest rate, service charge or finance charge, or the minimum  
18 amount of periodic installment payments, to be paid by the  
19 customer, the amendment shall be made (AND ANY OTHER AMENDMENT  
20 MAY BE MADE) in compliance with the following conditions:

21 (1) The creditor or seller shall mail OR DELIVER to the  
22 customer a written notice which shall describe the amendment  
23 and the existing terms of the agreement affected by the  
24 amendment and specify the effective date of the amendment  
25 which shall be not less than 30 days after the date of the  
26 notice and not less than 120 days after the effective date of  
27 a prior amendment made pursuant to this section by which the  
28 interest rate, service charge or finance charge was  
29 increased.

30 (2) The amendment shall become effective, and the notice

1 shall so state, only if the customer, or person authorized by  
2 the customer, uses the plan by incurring indebtedness after  
3 the date specified in the notice or otherwise agrees to the  
4 amendment but in no event shall such amendment take effect  
5 with respect to that portion of the outstanding indebtedness  
6 from billing period to billing period which represents  
7 indebtedness incurred prior to the first day of the billing  
8 period in which the customer, or person authorized by the  
9 customer, uses the plan after the date specified in the  
10 ~~notice of amendment mailed~~ FIRST NOTICE MAILED OR DELIVERED ←  
11 pursuant to this section or otherwise agrees to the  
12 amendment.

13 (3) The notice shall state that a customer to whom an  
14 amendment does not become applicable under this section may  
15 pay all outstanding amounts under the terms of the agreement,  
16 including times and amounts of payments, without the  
17 amendment.

18 (4) Payments and other credits applied to a revolving  
19 credit account after an amendment has become effective shall  
20 be applied in the manner set forth in the agreement.

21 (c) Any creditor or seller may apply an amended interest  
22 rate, service charge or finance charge to any indebtedness  
23 incurred after the effective date of this act as long as the  
24 following condition is followed: an irrevocable notice must be  
25 filed with the Secretary of the Department of Banking stating  
26 that the creditor or seller shall apply all outstanding  
27 indebtedness incurred after the effective date to the new  
28 interest rate, service charge or finance charge whether it be  
29 increased or decreased. Otherwise, a creditor or seller shall  
30 maintain any indebtedness incurred after the effective date of

1 this act at each newly amended interest rate, service charge or  
2 finance charge established, and no amended rate shall apply to  
3 indebtedness incurred before the effective date of the  
4 amendment.

5 Section 5. Nothing in this act shall be construed as:

6 (1) affecting any power or authority of any regulatory  
7 agency under the laws of the Commonwealth or as repealing or  
8 affecting the requirements or conditions of existing laws for  
9 licenses, permits, authorizations or regulatory approvals to  
10 engage in extending credit or granting loans; or

11 (2) granting to any institution, creditor or other  
12 person any power or authority to make any loan or extension  
13 of credit which it is not otherwise authorized to make under  
14 the laws of the Commonwealth.

15 Section 6. This act shall not affect existing Federal and  
16 State laws relating to loans for the first mortgage for the  
17 purchase of the borrower's principal residence.

18 Section 7. (a) The maximum interest rates, service charges  
19 or finance charges for any indebtedness incurred subsequent to  
20 the termination of this act whether made through a loan or a  
21 credit extension shall be the maximum rates of interest, service  
22 charges or finance charges imposed heretofore by the acts and  
23 sections of the acts referred to in section 2.

24 (b) The interest rate, service charges or finance charges  
25 established for any loan or extension of credit made under the  
26 provisions of this act shall remain in force and effect until  
27 satisfied in full for any balance on such loan or extension of  
28 credit remaining upon the termination of the act unless altered  
29 by the creditor or seller with proper disclosure for the debtor.

30 Section 8. Compliance with the Federal Truth-in-Lending Act



1, and regulations thereunder shall constitute compliance with all  
2 disclosure requirements under Pennsylvania law in transactions  
3 within the coverage of this act.

4 Section 9. The Secretary of Banking shall monitor the  
5 interest rates, service charges and finance charges imposed upon  
6 loans and extension of credit affected by this act. The  
7 Secretary of Banking shall report to the Legislature no later  
8 than January 1, 1983 as to:

- 9 (1) the degree of competition among the sellers and  
10 creditors in making loans and extending credit;  
11 (2) the interest rates, service charges and finance  
12 charges being assessed on loans and extensions of credit and  
13 their reflection upon the market conditions; and  
14 (3) the access to credit for consumers as affected by  
15 the interest rate, service charge and finance charge ceilings  
16 herein.

17 The Secretary of Banking shall make a second report to the  
18 Legislature no later than March 31, 1984 as to whether or not  
19 the interest rate, service charge and finance charge ceilings as  
20 provided herein shall continue or whether, with respect to  
21 individual types of loans or extensions of credit affected by  
22 this act, the statutory ceilings in existence before the  
23 effective date of this act shall be reimposed. This report shall  
24 also contain the same information required in the first report  
25 as delineated above in this section.

26 Section 10. Notwithstanding the definition of "racketeering  
27 activity" contained in 18 Pa.C.S. § 911(h)(1)(iv) and the  
28 provisions of 18 Pa.C.S. § 911(b) (relating to corrupt  
29 organizations), any institution or creditor operating under  
30 authority of this act may charge such interest rates, service

1 charges or finance charges on loans and extensions of credit as  
2 may be authorized under this act.  
3 Section 11. This act shall take effect in 30 days. This act  
4 shall terminate on November 30, 1984.