

17:9A-316

LEGISLATIVE HISTORY CHECKLIST  
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NJSA: 17:9A-316

(Foreign banks--  
regulate back  
office operations)

LAWS OF: 1991

CHAPTER: 74

Bill No: S3234

Sponsor(s): Lesniak

Date Introduced: January 17, 1991

Committee: Assembly: -----

Senate: Labor

Amended during passage: Yes      Amendments during passage  
denoted by asterisks.

Date of Passage: Assembly: March 7, 1991

Senate: February 28, 1991

Date of Approval: March 25, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: No

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: Yes

Following were printed:

Reports: No

Hearings: No

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[FIRST REPRINT]  
SENATE, No. 3234

STATE OF NEW JERSEY

INTRODUCED JANUARY 17, 1991

By Senator LESNIAK

1 AN ACT to regulate the back office operations of foreign banks  
2 and associations in this State and amending P.L.1948, c.67 and  
3 P.L.1963, c.144.

4

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

7 1. Section 316 of P.L.1948, c.67 (C.17:9A-316) is amended to  
8 read as follows:

9 316. Limitations on transaction of business by foreign banks in  
10 this State.

11 A. No foreign bank organized under the laws of a foreign  
12 government shall transact any business in this State.

13 B. A foreign bank, other than one excluded by subsection A of  
14 this section, may transact business in this State only as executor  
15 or as testamentary trustee or guardian, and then only when  
16 named in a decedent's will or codicil thereto. Before transacting  
17 such business in this State, a foreign bank shall secure from the  
18 commissioner a certificate of authority to transact such  
19 business. The commissioner shall not issue a certificate of  
20 authority to a foreign bank unless a qualified bank is permitted to  
21 transact business as executor, or as testamentary trustee or  
22 guardian, when named in a will or codicil thereto, in the  
23 jurisdiction in which the foreign bank has its principal office.

24 C. No foreign bank shall maintain an office in this State,  
25 except that a foreign bank may maintain one or more service  
26 facilities in this State, provided that the foreign bank performs  
27 only back office operations at the service facility and <sup>1</sup>[the  
28 service facility is closed to the foreign bank's customers and the  
29 general public] does not transact business with its customers or  
30 the public at the service facility<sup>1</sup>. Prior to opening a service  
31 facility in this State, a foreign bank shall register the service  
32 facility with the commissioner, which registration shall include  
33 the address of the proposed service facility and the name and  
34 address of the foreign bank's agent in this State for service of  
35 process. Each service facility shall comply with the requirements  
36 and pay the fees that the commissioner establishes by regulation.  
37 Each service facility shall be subject to examination by the  
38 department to determine whether the foreign bank has operated  
39 the service facility in accordance with the provisions of this

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:  
<sup>1</sup> Senate SLI committee amendments adopted February 4, 1991.

1 subsection, the costs of which examination shall be paid by the  
2 foreign bank at the department's per diem rate for examinations  
3 of depository institutions. The commissioner may, upon notice  
4 and a hearing, order a foreign bank to close any service facility  
5 operated in violation of the provisions of this subsection or of  
6 other any law. An entity which is affiliated, either directly or  
7 indirectly, with a foreign bank and intends to engage in back  
8 office operations in this State shall register and be regulated  
9 pursuant to this subsection as if it were a foreign bank.

10 D. For the purposes of this section, the term "transact  
11 business" shall not include back office operations and the term  
12 "back office operations" shall include only the following  
13 activities: data processing, record-keeping, accounting,  
14 <sup>1</sup>[servicing] check and deposit sorting and posting, computation  
15 and posting of interest, other similar clerical and statistical  
16 functions<sup>1</sup>, and producing and mailing correspondence or  
17 documents provided that the correspondence or documents do not  
18 include the address of the service facility.

19 (cf: P.L.1948, c.67, s.316)

20 2. Section 213 of P.L.1963, c.144 (C.17:12B-213) is amended to  
21 read as follows:

22 213. For the purposes of this article the words "[Foreign]  
23 foreign association" shall not be deemed to include [a Federal] an  
24 association, as defined in section 5 of [this act, nor any  
25 corporation engaged in the transaction of such business in  
26 interstate or foreign commerce] P.L.1963, c.144 (C.17:12B-5).

27 (cf: P.L.1963, c.144, s.213)

28 3. Section 214 of P.L.1963, c.144 (C.17:12B-214) is amended to  
29 read as follows:

30 214. a. Foreign associations shall not transact the business of  
31 a savings and loan association within this State, [nor] or maintain  
32 an office within this State, except as authorized pursuant to  
33 subsection b. of this section, for the purpose of transacting such  
34 business. It shall be unlawful for any person to transact business  
35 within this State on behalf of such associations; provided,  
36 however, the purchase, acquisition, holding, sale, assignment,  
37 transfer, servicing, collecting and enforcement of obligations or  
38 any interest therein secured by real estate mortgages or other  
39 instruments in the nature of a mortgage, covering real property  
40 located in this State, or the foreclosure of such instruments, or  
41 the acquisition of title to such property by foreclosure, or  
42 otherwise, as a result of default under such instruments, or the  
43 holding, protection, rental, maintenance and operation of said  
44 property so acquired, or the disposition thereof by a foreign  
45 association, or back office operations shall not be considered as  
46 transacting business within the meaning of this article.

47 b. A foreign association may maintain one or more service  
48 facilities in this State, provided that the foreign association  
49 performs only back office operations at the service facility and

1 <sup>1</sup>[the service facility is closed to the foreign associations's  
2 customers and the general public] does not transact business with  
3 its customers or the public at the service facility<sup>1</sup>. Prior to  
4 opening a service facility in this State, a foreign association shall  
5 register the service facility with the commissioner, which  
6 registration shall include the address of the proposed service  
7 facility and the name and address of the foreign association's  
8 agent in this State for service of process. Each service facility  
9 shall comply with the requirements and pay the fees that the  
10 commissioner establishes by regulation. Each service facility  
11 shall be subject to examination by the department to determine  
12 whether the foreign association has operated the service facility  
13 in accordance with the provisions of this subsection, the costs of  
14 which examination shall be paid by the foreign association at the  
15 department's per diem rate for examinations of depository  
16 institutions. The commissioner may, upon notice and a hearing,  
17 order a foreign association to close any service facility operated  
18 in violation of the provisions of this subsection or of any other  
19 law. An entity which is affiliated, either directly or indirectly,  
20 with a foreign association and intends to engage in back office  
21 operations in this State shall register and be regulated pursuant  
22 to this subsection as if it were a foreign association.

23 c. For the purposes of this section, the term "transact  
24 business" shall not include back office operations and the term  
25 "back office operations" shall include only the following  
26 activities: data processing, record-keeping, accounting,  
27 <sup>1</sup>[servicing] check and deposit sorting and posting, computation  
28 and posting of interest, other similar clerical and statistical  
29 functions<sup>1</sup>, and producing and mailing correspondence or  
30 documents provided that the correspondence or documents do not  
31 include the address of the service facility.

32 (cf: P.L.1964, c.261, s.1)

33 4. This act shall take effect immediately but shall remain  
34 inoperative until the Commissioner of Banking promulgates  
35 regulations implementing the provisions of this act.

36  
37

38 BANKING AND FINANCE

39

40 Regulates back office operations of foreign banks and  
41 associations in this State.

SENATE, No. 3234

STATE OF NEW JERSEY

INTRODUCED JANUARY 17, 1991

By Senator LESNIAK

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2 and associations in this State and amending P.L.1948, c.67 and  
3 P.L.1963, c.144.

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

7 1. Section 316 of P.L.1948, c.67 (C.17:9A-316) is amended to  
8 read as follows:

9 316. Limitations on transaction of business by foreign banks in  
10 this State.

11 A. No foreign bank organized under the laws of a foreign  
12 government shall transact any business in this State.

13 B. A foreign bank, other than one excluded by subsection A of  
14 this section, may transact business in this State only as executor  
15 or as testamentary trustee or guardian, and then only when  
16 named in a decedent's will or codicil thereto. Before transacting  
17 such business in this State, a foreign bank shall secure from the  
18 commissioner a certificate of authority to transact such  
19 business. The commissioner shall not issue a certificate of  
20 authority to a foreign bank unless a qualified bank is permitted to  
21 transact business as executor, or as testamentary trustee or  
22 guardian, when named in a will or codicil thereto, in the  
23 jurisdiction in which the foreign bank has its principal office.

24 C. No foreign bank shall maintain an office in this State,  
25 except that a foreign bank may maintain one or more service  
26 facilities in this State, provided that the foreign bank performs  
27 only back office operations at the service facility and the service  
28 facility is closed to the foreign bank's customers and the general  
29 public. Prior to opening a service facility in this State, a foreign  
30 bank shall register the service facility with the commissioner,  
31 which registration shall include the address of the proposed  
32 service facility and the name and address of the foreign bank's  
33 agent in this State for service of process. Each service facility  
34 shall comply with the requirements and pay the fees that the  
35 commissioner establishes by regulation. Each service facility  
36 shall be subject to examination by the department to determine  
37 whether the foreign bank has operated the service facility in  
38 accordance with the provisions of this subsection, the costs of

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

Matter underlined thus is new matter.

1 which examination shall be paid by the foreign bank at the  
2 department's per diem rate for examinations of depository  
3 institutions. The commissioner may, upon notice and a hearing,  
4 order a foreign bank to close any service facility operated in  
5 violation of the provisions of this subsection or of other any law.  
6 An entity which is affiliated, either directly or indirectly, with a  
7 foreign bank and intends to engage in back office operations in  
8 this State shall register and be regulated pursuant to this  
9 subsection as if it were a foreign bank.

10 D. For the purposes of this section, the term "transact  
11 business" shall not include back office operations and the term  
12 "back office operations" shall include only the following  
13 activities: data processing, record-keeping, accounting, servicing,  
14 and producing and mailing correspondence or documents provided  
15 that the correspondence or documents do not include the address  
16 of the service facility.

17 (cf: P.L.1948, c.67, s.316)

18 2. Section 213 of P.L.1963, c.144 (C.17:12B-213) is amended to  
19 read as follows:

20 213. For the purposes of this article the words "[Foreign]  
21 foreign association" shall not be deemed to include [a Federal] an  
22 association, as defined in section 5 of [this act, nor any  
23 corporation engaged in the transaction of such business in  
24 interstate or foreign commerce] P.L.1963, c.144 (C.17:12B-5).

25 (cf: P.L.1963, c.144, s.213)

26 3. Section 214 of P.L.1963, c.144 (C.17:12B-214) is amended to  
27 read as follows:

28 214. a. Foreign associations shall not transact the business of  
29 a savings and loan association within this State, [nor] or maintain  
30 an office within this State, except as authorized pursuant to  
31 subsection b. of this section, for the purpose of transacting such  
32 business. It shall be unlawful for any person to transact business  
33 within this State on behalf of such associations; provided,  
34 however, the purchase, acquisition, holding, sale, assignment,  
35 transfer, servicing, collecting and enforcement of obligations or  
36 any interest therein secured by real estate mortgages or other  
37 instruments in the nature of a mortgage, covering real property  
38 located in this State, or the foreclosure of such instruments, or  
39 the acquisition of title to such property by foreclosure, or  
40 otherwise, as a result of default under such instruments, or the  
41 holding, protection, rental, maintenance and operation of said  
42 property so acquired, or the disposition thereof by a foreign  
43 association, or back office operations shall not be considered as  
44 transacting business within the meaning of this article.

45 b. A foreign association may maintain one or more service  
46 facilities in this State, provided that the foreign association  
47 performs only back office operations at the service facility and  
48 the service facility is closed to the foreign associations's  
49 customers and the general public. Prior to opening a service

1 facility in this State, a foreign association shall register the  
2 service facility with the commissioner, which registration shall  
3 include the address of the proposed service facility and the name  
4 and address of the foreign association's agent in this State for  
5 service of process. Each service facility shall comply with the  
6 requirements and pay the fees that the commissioner establishes  
7 by regulation. Each service facility shall be subject to  
8 examination by the department to determine whether the foreign  
9 association has operated the service facility in accordance with  
10 the provisions of this subsection, the costs of which examination  
11 shall be paid by the foreign association at the department's per  
12 diem rate for examinations of depository institutions. The  
13 commissioner may, upon notice and a hearing, order a foreign  
14 association to close any service facility operated in violation of  
15 the provisions of this subsection or of any other law. An entity  
16 which is affiliated, either directly or indirectly, with a foreign  
17 association and intends to engage in back office operations in this  
18 State shall register and be regulated pursuant to this subsection  
19 as if it were a foreign association.

20 c. For the purposes of this section, the term "transact  
21 business" shall not include back office operations and the term  
22 "back office operations" shall include only the following  
23 activities: data processing, record-keeping, accounting, servicing,  
24 and producing and mailing correspondence or documents provided  
25 that the correspondence or documents do not include the address  
26 of the service facility.

27 (cf: P.L.1964, c.261, s.1)

28 4. This act shall take effect immediately but shall remain  
29 inoperative until the Commissioner of Banking promulgates  
30 regulations implementing the provisions of this act.

31

32

#### 33 STATEMENT

34

35 This bill provides for the registration and regulation by the  
36 Department of Banking of back office operations of foreign banks  
37 and associations in this State. It also requires non-banking  
38 affiliates of foreign banks and associations which perform back  
39 office operations to register and be regulated by the Department  
40 of Banking.

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43

#### 43 BANKING AND FINANCE

44

45 Regulates back office operations of foreign banks and  
46 associations in this State.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

**SENATE, No. 3234**

with committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 4, 1991

The Senate Labor, Industry and Professions Committee reports favorably and with committee amendments Senate Bill No. 3234.

This bill, as amended by the committee, provides for the registration and regulation by the Department of Banking of back office operations conducted in this State by foreign banks and savings and loan associations and their non-banking affiliates. Back office operations include only data processing, record-keeping, accounting, check and deposit sorting and posting, computation and posting of interest, other clerical and statistical functions, and producing and mailing correspondence or documents provided that the correspondence or documents do not include the address of the service facility doing the back office operations.

A foreign bank or association may maintain one or more service facilities in this State to perform back office operations but it must not transact business with its customers or the general public at its service facility or facilities. Prior to opening a service facility, a foreign bank or association must register with the Commissioner of Banking and comply with the requirements and pay the fees established by the commissioner by regulation. A service facility would be subject to examination by the department and the cost of that examination must be paid by the foreign bank or association at the department's per diem rate for examinations of depository institutions. The commissioner may, upon notice and a hearing, order a foreign bank or association to close any service facility operated in violation of the law.

The provisions of the bill will remain inoperative until the commissioner promulgates regulations implementing them.