

17:16N-1

LEGISLATIVE HISTORY CHECKLIST
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(Banks--basic
services at
nominal cost)

LAWS OF: 1991

CHAPTER: 210

Bill No: A1179

Sponsor(s): Kalik and others

Date Introduced: Pre-filed

Committee: Assembly: Financial Institutions

Senate: Labor, Industry & Professions

Amended during passage: Yes Assembly Committee Substitute
(2R) enacted

Date of Passage: Assembly: February 21, 1991

Senate: June 13, 1991

Date of Approval: July 16, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: Yes

Following were printed:

Reports: Yes

Hearings: No

(over)

974.90 New Jersey. Legislature. General Assembly. Financial Institutions
B218 Committee.
1990 Public hearing on...A1179, held 5-14-90.

For background see:

974.90 New Jersey. Legislature. General Assembly. Financial Institutions
B218 Committee.
1986b Public hearing on consumer related banking issues, held
4-28-86.

P.L.1991, CHAPTER 210, *approved July 16, 1991*
Assembly Committee Substitute (*Second Reprint*) for
1990 Assembly No. 1179

1 AN ACT to require depository institutions to offer a New Jersey
2 Consumer Checking Account and supplementing Title 17 of the
3 Revised Statutes.

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

7 1. a. The Legislature hereby finds and declares that:

8 (1) ¹[Depository institutions in New Jersey receive substantial
9 public benefits from federal insurance backed by the full faith
10 and credit of the United States Government and certain of these
11 lenders have access to the lender of last resort of the Federal
12 Reserve System at favorable interest rates and terms;

13 (2) Depository institutions in New Jersey receive additional
14 public benefits from State and federal regulation, providing
15 further assurance of their safety and soundness;

16 (3) Enjoying these public benefits, which are critical to their
17 unique status in society,] The¹ depository institutions in New
18 Jersey ¹[are obligated to] should¹ meet the basic banking needs
19 of the communities in which they are authorized to operate by
20 assuring the availability of essential financial services to all
21 people in the community;

22 ¹[(4)] (2)¹ In recent years ¹[there have been sharp increases in
23 the fees and charges for basic banking services and] , due to
24 increased costs,¹ many of the State's consumers, particularly
25 young, low-income and elderly consumers, ¹[now find] have been
26 finding¹ it increasingly difficult to afford ¹[these] basic
27 checking¹ services;

28 ¹[(5)] (3)¹ Those without access to banking and financial
29 services due to increased cost are forced to operate on a
30 cash-only basis and are therefore at greater risk for their
31 personal safety and well-being;

32 ¹[(6)] (4)¹ The lack of access to banking and financial services
33 forces many low-income and elderly consumers to use relatively
34 ~~high cost check-cashing services to cash their social security or~~
35 ~~welfare benefit checks, a practice that undermines the~~
36 ~~effectiveness of these vital public assistance programs.~~

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted January 31, 1991.

² Senate SLI committee amendments adopted May 13, 1991.

1 b. The Legislature declares that it is the purpose of this act to
2 make a New Jersey Consumer Checking Account available to
3 consumers by requiring depository institutions which offer
4 regular checking accounts¹ to offer ¹[this type of account] a New
5 Jersey Consumer Checking Account at low cost¹ to all consumers
6 who abide by ¹[their regulations] the requirements established for
7 such accounts by this act¹.

8 2. As used in this act:

9 "Account" means an account in a depository institution with
10 respect to which the account holder is permitted to make
11 withdrawals by negotiable or transferable instrument, payment
12 orders of withdrawal, telephone transfers, or other similar items
13 for the purpose of making payments or transfers to third persons
14 or others, including a demand deposit account, negotiable order
15 of withdrawal account, draft account, savings deposit account
16 subject to automatic transfers, share draft account, and all
17 savings deposit and share accounts other than time deposit
18 accounts.

19 "Business day" means any day other than a Saturday, Sunday or
20 legal holiday.

21 "Check" means any check ¹as defined in N.J.S.12A:3-104¹,
22 share draft, negotiable order of withdrawal, or similar means of
23 making payment or transfers to third parties or others which is
24 drawn on ¹an account in¹ a depository institution and is payable
25 on demand.

26 "Consumer" means a natural person ¹who resides in this State¹.

27 "Commissioner" means the Commissioner of Banking.

28 "Depository institution" means a State or federally chartered
29 bank, savings bank, savings and loan association or credit union
30 doing business in this State.

31 "Electronic branch" means automatic teller machines (ATMs)
32 and similar technology which may be used by customers of a
33 depository institution in connection with a customer's account.

34 ²[¹"Low-income consumer" means a consumer whose household
35 income in the immediately preceeding year did not exceed 80% of
36 the median household income in this State as last reported by the
37 New Jersey Department of Labor from data obtained in the
38 March supplement of the Current Population Survey of the United
39 States Bureau of the Census.¹]²

40 "New Jersey Consumer Checking Account" means a deposit
41 account ¹established pursuant to section 3 of this act¹ and with
42 respect to which the account holder is permitted to make
43 payments to third parties or others by check ¹[that is: a. held by
44 the consumer; and b. used primarily for personal, family or
45 household purposes]¹.

46 "Office" includes the home office of a depository institution
47 and any office approved as a branch of the depository institution
48 by its federal or State supervisory agency, but excludes
49 free-standing electronic branches.

1 "Periodic account statement" means any written statement
2 provided on a regular basis ¹at the end of each periodic cycle¹ by
3 a depository institution to an account holder that reflects all
4 debits and credits to an account held by the account holder ¹[for
5 the period represented by the statement] during a periodic cycle.

6 "Periodic cycle" means a period of time which is equal to or
7 shorter than a calendar quarter and, if shorter than a calendar
8 quarter, divides a calendar quarter into approximately equal units
9 of time¹.

10 "Regular checking account" means that type of checking,
11 demand deposit, negotiable order of withdrawal, ¹share draft
12 account,¹ or similar account, other than a New Jersey Consumer
13 Checking Account, offered by the depository institution, which is
14 held by more consumers than any other such account offered by
15 the depository institution.

16 3. a. Every depository institution that maintains regular
17 checking accounts in this State shall make available to consumers
18 a New Jersey Consumer Checking Account at all offices of that
19 depository institution where regular checking accounts are
20 offered or available. ¹A New Jersey Consumer Checking
21 Account shall be used primarily for personal, family, or household
22 purposes.¹ No depository institution shall be required to offer a
23 New Jersey Consumer Checking Account at a cost which is below
24 its actual cost to provide such an account ¹[, nor shall its charges
25 to an account holder be more than 10% above its actual costs to
26 provide such an account]. The calculation made by a depository
27 institution of the actual cost of providing a New Jersey Consumer
28 Checking Account shall be determinative in the absence of
29 mathematical error or a request from the commissioner for other
30 data and information deemed relevant or appropriate for
31 evaluating the actual cost of providing a New Jersey Consumer
32 Checking Account¹. New Jersey Consumer Checking Accounts
33 shall contain the features specified in subsection c. of this
34 section ¹or be an account the features and terms of which have
35 been approved by the commissioner pursuant to subsection d. of
36 this section.

37 ²[Notwithstanding the provisions of this subsection to the
38 contrary, a depository institution may make available a New
39 Jersey Consumer Checking Account only to a low-income
40 consumer or consumers.]²

41 b. An ¹[application] applicant¹ for a New Jersey Consumer
42 Checking Account shall ¹[contain the date of application and the
43 name, address, social security number, and handwritten signature
44 of the consumer as well as other information the commissioner
45 reasonably determines to be necessary. At the time of
46 application, the consumer may be required by the depository
47 institution to present identification in such form as the
48 commissioner may require by regulation and may be required by
49 the depository institution to sign a document in which he states

1 whether he has or has applied for any account, other than the
2 New Jersey Consumer Checking Account he is applying for, at
3 that depository institution or any other depository institution]
4 provide the depository institution with the same information an
5 applicant for a regular checking account is required to provide at
6 that depository institution ²[and shall also provide, if requested
7 by the depository institution, other information by which the
8 depository institution is able to determine a consumer's
9 household income¹2.

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

15 (1) the initial deposit amount¹, if any,¹ necessary to open a
16 New Jersey Consumer Checking Account¹[, if any]¹;

17 (2) the maximum amount¹, if any,¹ permitted to be required
18 by a depository institution as a minimum balance necessary to
19 maintain the account¹[, if any]¹;

20 (3) the number of checks, if any, that may be used within a
21 ¹[monthly] periodic¹ cycle without charge to withdraw funds
22 from the account;

23 (4) the number of other withdrawals, if any, that may be made
24 by a method other than check within a ¹[monthly] periodic¹ cycle
25 without charge;

26 (5) a maximum amount¹, if any,¹ that may be charged per
27 ¹[month] periodic cycle¹ for maintaining the account¹[, if any]¹;
28 ¹[and]¹

29 (6) ¹the maximum number of deposits, if any, that may be
30 made in a periodic cycle without charge; and

31 (7)¹ a maximum amount that may be charged per transaction
32 in excess of the number permitted under paragraphs (3) ¹[and] ¹
33 (4) ¹and (6)¹ of this subsection.

34 d. ¹(1) Notwithstanding the provisions of subsection c. of this
35 section, a depository institution may establish a New Jersey
36 Consumer Checking Account by submitting an account to the
37 commissioner for approval as a New Jersey Consumer Checking
38 Account by providing the commissioner information which details
39 the features and terms of the account.

40 (2) The commissioner shall approve or reject the account as a
41 New Jersey Consumer Checking Account within 30 business days
42 of receipt of the information from a depository institution.

43 (3) If the commissioner does not approve an account as a New
44 Jersey Consumer Checking Account, the commissioner shall
45 provide to the depository institution, in writing, the reasons for
46 his decision.

47 e.¹ ²The commissioner shall, prior to promulgating regulations
48 pursuant to subsection c. of this section or accepting any account
49 for approval pursuant to subsection d. of this section, review the

1 terms and conditions of the low cost personal checking accounts
2 currently available to consumers in this State and shall consider
3 those terms and conditions in complying with the provisions of
4 subsections c. and d. of this section.

5 f.² The holder of a New Jersey Consumer Checking Account
6 shall:

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

11 (2) not be assessed any fee in excess of the usual fee or charge
12 made by the depository institution to its regular checking account
13 holders ¹[for:

- 14 (a) stopping payment of a check;
15 (b) a check drawn on the account being dishonored;
16 (c) providing checks;
17 (d) any of the following services if provided by the depository
18 institution:

- 19 (i) money orders;
20 (ii) cashier's checks;
21 (iii) ~~certified checks; and~~
22 (iv) return of cancelled checks; or
23 (e) any other services other than services specified in
24 subsection c. of this section and paragraph (1) of this subsection.

25 (3) not be assessed any monthly, per transaction or other fee
26 or charge, except for the fees permitted under paragraphs (5) and
27 (6) of subsection c. of this section and paragraph (2) of this
28 subsection, for:

- 29 (a) any deposit of funds into the account;
30 (b) maintaining the account;
31 (c) inactivity of the account;
32 (d) any balance inquiry; or
33 (e) closing the account¹.

34 ¹[e.] ²[f.] g.² A depository institution shall provide ¹[, at the
35 end of every monthly cycle,] a periodic account statement¹ to
36 every holder of a New Jersey Consumer Checking Account ¹[a
37 periodic account statement listing all transactions for the
38 monthly cycle involved]¹.

39 ¹[f.] ²[g.] h.² A depository institution may close ¹a New
40 Jersey Consumer Checking Account under the same standards for
41 fraudulent activity and overdrafts as it applies to holders of
42 regular checking accounts at the depository institution¹ or ¹close

43 or¹ refuse to open a New Jersey Consumer Checking Account if
44 the consumer:

45 (1) has a regular checking account or another New Jersey
46 Consumer Checking Account in that depository institution or in
47 any other depository institution; ¹or¹

48 (2) makes an intentional material misrepresentation in the
49 information provided to the depository institution to open the

1 account¹;

2 (3) has engaged in a pattern of fraudulent activity involving an

3 account; or

4 (4) has had three or more occurrences on which checks were

5 not paid, during the prior six-month period, because the consumer

6 did not have sufficient funds in the account on which the checks

7 were drawn¹.

8 ¹[g.] ²[h. ¹] i. ² A depository institution shall not require any

9 holder of a New Jersey Consumer Checking Account to have any

10 other account at that or any other depository institution or have

11 a credit card issued by it or any other depository institution as a

12 condition to opening or maintaining a New Jersey Consumer

13 Checking Account ¹[, and shall not impose any other requirement

14 with respect to a New Jersey Consumer Checking Account that

15 would tend to discriminate against low-income consumers in

16 opening, maintaining or using such accounts]¹.

17 4. Except as otherwise provided in this act, a depository

18 institution shall offer all of its products and services to a

19 consumer who holds a New Jersey Consumer Checking Account

20 on the same basis that it offers those products and services to

21 consumers who hold regular checking accounts.

22 5. Every depository institution required to offer a New Jersey

23 Consumer Checking Account shall post a conspicuous notice in

24 ¹[an appropriate] a public¹ area of each office ¹and make

25 material available in the public area¹ that informs consumers of

26 the availability of a New Jersey Consumer Checking Account.

27 The notice ¹and material¹ shall ¹[clearly]¹ explain the material

28 features and limitations of such an account ¹[so that consumers

29 can reasonably be expected to understand the terms of the

30 account and services offered]¹.

31 6. a. A depository institution that fails to comply with any

32 provision of this act may be enjoined in any court of competent

33 jurisdiction ¹[and shall also be liable for the actual damages

34 suffered by an aggrieved party, the costs of the action, and

35 reasonable attorneys' fees, as determined by the court. A

36 minimum damage award of \$100 shall be available to successful

37 litigants. The court may award punitive damages upon a finding

38 of willful violation and make such orders as may be necessary to

39 prevent future violations of this act]¹.

40 b. Nothing in this act shall be construed to limit the rights or

41 remedies which are otherwise available to the holder of a New

42 ~~Jersey Consumer Checking Account under any other law.~~

43 7. Upon a finding by the commissioner, after notice and an

44 opportunity for hearing, of a violation by any depository

45 institution of any provision of this act, or any regulation or order

46 of the commissioner issued pursuant thereto, the commissioner

47 may order the depository institution to cease any violation ¹[or to

48 pay a civil penalty not in excess of \$500 for each day that the

49 violation has continued, or both, the penalty being

1 recoverable under "the penalty enforcement law," N.J.S.2A:58-1
2 et seq]¹ or to pay a civil penalty not in excess of \$500 for each
3 day that the violation has continued, or both, the penalty being
4 recoverable under "the penalty enforcement law," N.J.S.2A:58-1
5 et seq².

6 8. In addition to the regulations specifically required pursuant
7 to subsection c. of section 3 of this act, the commissioner may,
8 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
9 (C.52:14B-1 et seq.), promulgate other regulations with regard to
10 the implementation of this act as the commissioner deems
11 necessary.

12 9. This act shall take effect immediately, but shall remain
13 inoperative until the 120th day following adoption by the
14 commissioner of regulations required to be promulgated pursuant
15 to this act.

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BANKING AND FINANCE

20 Requires depository institutions to offer a New Jersey Consumer
21 Checking Account.

1 this act, the commissioner shall promulgate regulations pursuant
2 to the "Administrative Procedure Act," P.L.1968, c.410
3 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

4 21. This act shall take effect immediately.
5
6

7 STATEMENT
8

9 This bill requires depository institutions to provide limited, low
10 cost or "no-frills" checking and savings accounts to any consumer
11 willing to be subject to its restrictions. Initial deposit
12 requirements cannot exceed \$10. The checking accounts must
13 provide eight free checks and five free withdrawals per month.
14 In person savings withdrawals are limited to one per week and
15 deposits to two per week without charge. An interest rate
16 equivalent to at least 75% of the annual rate on regular savings
17 accounts is required. Consumers cannot have more than one of
18 each of these accounts concurrently.

19 This bill requires banks to register non-account holders
20 requesting check-cashing cards. The card would allow the holder
21 to cash state, local and federal government checks at no cost at
22 the card issuing branch.

23 Most consumers are unable to meet minimum requirements for
24 high yield, no fee savings and checking accounts. Federal
25 Reserve System data shows that 40% of all Americans have less
26 than \$1,000 in financial assets of any type and another 20% have
27 less than \$1,000-\$5,000. In addition, the average family with an
28 income of under \$20,000 per year has less than \$1,000 in
29 combined checking and savings accounts. For families with
30 incomes of over \$50,000, the median size of the checking account
31 is just \$1,700. Most banks typically require \$1,500 to \$5,000
32 minimum balances in NOW accounts to avoid fees.

33 Consumers who cannot meet minimum balance requirements
34 are finding that the amount and number of bank fees has risen
35 tremendously. Between 1979 and 1983, the cost of banking
36 services for the average American household jumped 104% from
37 \$91.94 to \$187.59. Many consumers are unable to maintain bank
38 accounts. For others, what little money they have is eaten away
39 by monthly fees for maintaining an account, not maintaining a
40 minimum balance and making withdrawals and deposits.

41 Section 13 requires the clear and standard disclosure of fees,
42 charges and interest rates offered by depository institutions so
43 that consumers can make meaningful comparisons of services
44 offered by such institutions.
45

46 BANKING AND FINANCE
47

48
49 Requires depository institutions to offer certain basic financial

A1179

11

- 1 services, disclose certain information and, for registered
- 2 non-customers, to cash certain checks.

ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1179

STATE OF NEW JERSEY

DATED: OCTOBER 15, 1990

The Assembly Financial Institutions Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 1179.

This bill, Assembly Committee Substitute for Assembly, No. 1179, requires depository institutions in this State to make available to consumers a New Jersey Consumer Checking Account. No depository institution is required to offer this account at a cost to the institution which is below its actual cost of providing such an account, nor is it permitted to charge the holder of such an account an amount which is more than 10% above the depository institution's cost of providing such an account. The bill requires the Commissioner of Banking to establish by regulation all of the following features of the New Jersey Consumer Checking Account which may be stated in terms of a range of options rather than a specific number: an initial deposit amount to open a New Jersey Consumer Checking Account, if any; the maximum amount permitted to be required by the depository institution as a minimum balance to maintain an account, if any; the number of checks, if any, that may be used within a monthly cycle without charge to withdraw funds from the account; the number of other withdrawals, if any, that may be made by a method other than check within a monthly cycle without charge; a maximum amount that may be charged per month for maintaining the account, if any; and a maximum amount that may be charged per withdrawal transaction in excess of the number permitted by check or other means without charge within a monthly cycle.

In addition, the bill provides that a holder of a New Jersey Consumer Checking Account is to have the same access to mail or electronic banking services, including direct deposits to the account by payors, as that offered to holders of regular checking account at the same depository institution; and is not to be assessed any fee in excess of the usual fee or charge made by the depository institution to its regular checking account customers for certain services provided in relation to the use and maintenance of a checking account and any of the following services if provided by the depository institution, such as, cashier's checks, certified checks, and return of cancelled checks.

The bill permits a depository institution to close or refuse to open a New Jersey Consumer Checking Account if a consumer: has a regular checking account or another New Jersey Consumer Checking Account; makes an intentional material misrepresentation in the

information provided to the depository institution to open the account; has engaged in a pattern of fraudulent activity involving an account; or has had three or more occurrences on which checks were not paid, during the prior six-month period, because the consumer did not have sufficient funds in the account on which the check is drawn.

Every depository institution is required to post a conspicuous notice in an appropriate area in each office that informs consumers of the availability of a New Jersey Consumer Checking Account. This notice is to clearly describe the material features and limitations of such an account.

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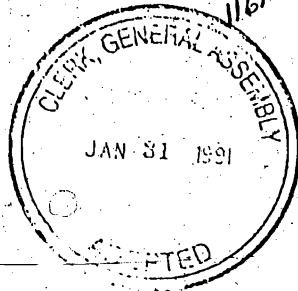
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Assembly Amendments
(Proposed by Assemblywoman Kalik)

to
ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1179 (ACS)

(Sponsored by Assemblywoman Kalik and Assemblyman Roberts)

~~Speaker~~
~~Clerk (3)~~
~~Majority Leader~~
~~Minority Leader~~
~~Sponsor of Aa~~
~~Sponsor of Bill~~

REPLACE SECTION 1 TO READ:

1. a. The Legislature hereby finds and declares that:

(1) ¹[Depository institutions in New Jersey receive substantial public benefits from federal insurance backed by the full faith and credit of the United States Government and certain of these lenders have access to the lender of last resort of the Federal Reserve System at favorable interest rates and terms;

(2) Depository institutions in New Jersey receive additional public benefits from State and federal regulation, providing further assurance of their safety and soundness;

(3) Enjoying these public benefits, which are critical to their unique status in society,] The ¹depository institutions in New Jersey ¹[are obligated to] should ¹meet the basic banking needs of the communities in which they are authorized to operate by assuring the availability of essential financial services to all people in the community;

¹[(4)] (2) ¹In recent years ¹[there have been sharp increases in the fees and charges for basic banking services and] due to increased costs, ¹many of the State's consumers, particularly young, low-income and elderly consumers, ¹[now find] it increasingly difficult to afford ¹[these] basic checking ¹services;

have been find-
1179

¹[(5)] (3) ¹Those without access to banking and financial services due to increased cost are forced to operate on a cash-only basis and are therefore at greater risk for their personal safety and well-being;

¹[(6)] (4) ¹The lack of access to banking and financial services forces many low-income and elderly consumers to use relatively high cost check-cashing services to cash their social security or welfare benefit checks, a practice that undermines the effectiveness of these vital public assistance programs.

b. The Legislature declares that it is the purpose of this act to make a New Jersey Consumer Checking Account available to consumers by requiring depository institutions ¹which offer regular checking accounts ¹to offer ¹[this type of account] a New Jersey Consumer Checking Account at low cost ¹to all consumers who abide by ¹[their regulations] the requirements established for such accounts by this act ¹.

REPLACE SECTION 2 TO READ:

2. As used in this act:

"Account" means an account in a depository institution with respect to which the account holder is permitted to make

withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others, including a demand deposit account, negotiable order of withdrawal account, draft account, savings deposit account subject to automatic transfers, share draft account, and all savings deposit and share accounts other than time deposit accounts.

"Business day" means any day other than a Saturday, Sunday or legal holiday.

"Check" means any check ¹as defined in N.J.S. 12A:3-104¹, share draft, negotiable order of withdrawal, or similar means of making payment or transfers to third parties or others which is drawn on ¹an account in¹ a depository institution and is payable on demand.

"Consumer" means a natural person ¹who resides in this State¹.

"Commissioner" means the Commissioner of Banking.

"Depository institution" means a State or federally chartered bank, savings bank, savings and loan association or credit union doing business in this State.

"Electronic branch" means automatic teller machines (ATMs) and similar technology which may be used by customers of a depository institution in connection with a customer's account.

¹"Low-income consumer" means a consumer whose household income in the immediately preceeding year did not exceed 80% of the median household income in this State as last reported by the New Jersey Department of Labor from data obtained in the March supplement of the Current Population Survey of the United States Bureau of the Census.¹

"New Jersey Consumer Checking Account" means a deposit account ¹established pursuant to section 3 of this act¹ and with respect to which the account holder is permitted to make payments to third parties or others by check ¹[that is: a. held by the consumer; and b. used primarily for personal, family or household purposes]¹.

"Office" includes the home office of a depository institution and any office approved as a branch of the depository institution by its federal or State supervisory agency, but excludes free-standing electronic branches.

"Periodic account statement" means any written statement provided on a regular basis ¹at the end of each periodic cycle¹ by a depository institution to an account holder that reflects all debits and credits to an account held by the account holder ¹[for the period represented by the statement] during a periodic cycle.

~~"Periodic cycle" means a period of time which is equal to or shorter than a calendar quarter and, if shorter than a calendar quarter, divides a calendar quarter into approximately equal units of time.¹~~

(see sec 3 and 4 of act)

"Regular checking account" means that type of checking, demand deposit, negotiable order of withdrawal, ¹share draft account,¹ or similar account, other than a New Jersey Consumer

Checking Account, offered by the depository institution, which is held by more consumers than any other such account offered by the depository institution.

REPLACE SECTION 3 TO READ:

3. a. Every depository institution that maintains regular checking accounts in this State shall make available to consumers a New Jersey Consumer Checking Account at all offices of that depository institution where regular checking accounts are offered or available. ¹A New Jersey Consumer Checking Account shall be used primarily for personal, family, or household purposes.¹ No depository institution shall be required to offer a New Jersey Consumer Checking Account at a cost which is below its actual cost to provide such an account¹, nor shall its charges to an account holder be more than 10% above its actual costs to provide such an account¹. The calculation made by a depository institution of the actual cost of providing a New Jersey Consumer Checking Account shall be determinative in the absence of mathematical error or a request from the commissioner for other data and information deemed relevant or appropriate for evaluating the actual cost of providing a New Jersey Consumer Checking Account¹. New Jersey Consumer Checking Accounts shall contain the features specified in subsection c. of this section ¹or be an account the features and terms of which have been approved by the commissioner pursuant to subsection d. of this section.

Notwithstanding the provisions of this subsection to the contrary, a depository institution may make available a New Jersey Consumer Checking Account only to a low-income consumer or consumers.¹

b. An ¹[application] applicant¹ for a New Jersey Consumer Checking Account shall ¹[contain the date of application and the name, address, social security number, and handwritten signature of the consumer as well as other information the commissioner reasonably determines to be necessary. At the time of application, the consumer may be required by the depository institution to present identification in such form as the commissioner may require by regulation and may be required by the depository institution to sign a document in which he states whether he has or has applied for any account, other than the New Jersey Consumer Checking Account he is applying for, at that depository institution or any other depository institution] provide the depository institution with the same information an applicant for a regular checking account is required to provide at that depository institution and shall also provide, if requested by the depository institution, other information by which the depository institution is able to determine a consumer's household income¹.

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

- (1) the initial deposit amount¹, if any,¹ necessary to open a New Jersey Consumer Checking Account¹[, if any]¹;
- (2) the maximum amount¹, if any,¹ permitted to be required by a depository institution as a minimum balance necessary to maintain the account¹[, if any]¹;
- (3) the number of checks, if any, that may be used within a ¹[monthly] periodic¹ cycle without charge to withdraw funds from the account;
- (4) the number of other withdrawals, if any, that may be made by a method other than check within a ¹[monthly] periodic¹ cycle without charge;
- (5) a maximum amount¹, if any,¹ that may be charged per ¹[month] periodic cycle¹ for maintaining the account¹[, if any]¹; ¹[and]¹
- (6) ¹the maximum number of deposits, if any, that may be made in a periodic cycle without charge; and
- (7)¹ a maximum amount that may be charged per transaction in excess of the number permitted under paragraphs (3) ¹[and] ¹(4) ¹and (6)¹ of this subsection.

d. ¹(1) Notwithstanding the provisions of subsection c. of this section, a depository institution may establish a New Jersey Consumer Checking Account by submitting an account to the commissioner for approval as a New Jersey Consumer Checking Account by providing the commissioner information which details the features and terms of the account.

(2) The commissioner shall approve or reject the account as a New Jersey Consumer Checking Account within 30 business days of receipt of the information from a depository institution.

(3) If the commissioner does not approve an account as a New Jersey Consumer Checking Account, the commissioner shall provide to the depository institution, in writing, the reasons for his decision.

e.¹ The holder of a New Jersey Consumer Checking Account shall:

- (1) have no less access to mail or electronic banking services, including direct deposits to the account by payors, than that offered to holders of regular checking accounts at that depository institution;
- (2) not be assessed any fee in excess of the usual fee or charge ~~made by the depository institution to its regular checking account~~ holders ¹[for:
 - (a) stopping payment of a check;
 - (b) a check drawn on the account being dishonored;
 - (c) providing checks;
 - (d) any of the following services if provided by the depository institution:
 - (i) money orders;
 - (ii) cashier's checks;
 - (iii) certified checks; and
 - (iv) return of cancelled checks; or

(e) any other services other than services specified in subsection c. of this section and paragraph (1) of this subsection.

(3) not be assessed any monthly, per transaction or other fee or charge, except for the fees permitted under paragraphs (5) and (6) of subsection c. of this section and paragraph (2) of this subsection, for:

- (a) any deposit of funds into the account;
- (b) maintaining the account;
- (c) inactivity of the account;
- (d) any balance inquiry; or
- (e) closing the account¹.

¹[e.] ¹f. ¹A depository institution shall provide ¹[, at the end of every monthly cycle,] a periodic account statement¹ to every holder of a New Jersey Consumer Checking Account ¹[a periodic account statement listing all transactions for the monthly cycle involved]¹.

¹[f.] ¹g. ¹A depository institution may close ¹a New Jersey Consumer Checking Account under the same standards for fraudulent activity and overdrafts as it applies to holders of regular checking accounts at the depository institution¹ or ¹close or ¹refuse to open a New Jersey Consumer Checking Account if the consumer:

(1) has a regular checking account or another New Jersey Consumer Checking Account in that depository institution or in any other depository institution; ¹or¹

(2) makes an intentional material misrepresentation in the information provided to the depository institution to open the account¹;

(3) has engaged in a pattern of fraudulent activity involving an account; or

(4) has had three or more occurrences on which checks were not paid, during the prior six-month period, because the consumer did not have sufficient funds in the account on which the checks were drawn¹.

¹[g.] ¹h. ¹A depository institution shall not require any holder of a New Jersey Consumer Checking Account to have any other account at that or any other depository institution or have a credit card issued by it or any other depository institution as a condition to opening or maintaining a New Jersey Consumer Checking Account ¹[, and shall not impose any other requirement with respect to a New Jersey Consumer Checking Account that would tend to discriminate against low-income consumers in opening, maintaining or using such accounts]¹.

REPEAL SECTION 5 TO READ:

5. Every depository institution required to offer a New Jersey Consumer Checking Account shall post a conspicuous notice in ¹[an appropriate] a public¹ area of each office ¹and make material available in the public area¹ that informs consumers of the availability of a New Jersey Consumer Checking Account.

The notice ¹and material¹ shall ¹[clearly]¹ explain the material features and limitations of such an account ¹[so that consumers can reasonably be expected to understand the terms of the account and services offered]¹.

REPLACE SECTION 6 TO READ:

6. a. A depository institution that fails to comply with any provision of this act may be enjoined in any court of competent jurisdiction ¹[and shall also be liable for the actual damages suffered by an aggrieved party, the costs of the action, and reasonable attorneys' fees, as determined by the court. A minimum damage award of \$100 shall be available to successful litigants. The court may award punitive damages upon a finding of willful violation and make such orders as may be necessary to prevent future violations of this act]¹.

b. Nothing in this act shall be construed to limit the rights or remedies which are otherwise available to the holder of a New Jersey Consumer Checking Account under any other law.

REPLACE SECTION 7 TO READ:

7. Upon a finding by the commissioner, after notice and an opportunity for hearing, of a violation by any depository institution of any provision of this act, or any regulation or order of the commissioner issued pursuant thereto, the commissioner may order the depository institution to cease any violation ¹[or to pay a civil penalty not in excess of \$500 for each day that the violation has continued, or both, the penalty being recoverable under "the penalty enforcement law," N.J.S.2A:58-1 et seq]¹.

STATEMENT

The amendments to Assembly, No. 1179 ACS make the following changes:

1. The preamble is shortened;
2. Definitions for low-income consumer and periodic cycle are added;
3. The actual cost of providing a New Jersey Consumer Checking Account is to be determined by a depository institution under normal circumstances. The Commissioner may request additional information concerning the cost if deemed necessary.
4. Depository institutions are provided an alternative way of meeting the requirement of offering a New Jersey Consumer Checking Account by submitting an account proposal to the Commissioner of Banking for his review and approval. The commissioner is required to approve or reject the account submitted by a depository institution for approval as a New Jersey Consumer Checking Account within 30 business days after receipt of the information on the account from a depository institution. If the commissioner rejects the account, he is required to provide his reasons in writing for so doing;

5. Monetary penalties for failure of a depository institution to abide by the provisions of the act have been removed; and
6. Depository institutions are required to post information and provide material in a public area of the depository institution to inform consumers of the nature and availability of New Jersey Consumer Checking Accounts.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1179

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 13, 1991

The Senate Labor, Industry and Professions Committee reports favorably and with committee amendments Assembly, No. 1179 ACS (1R).

This bill, as amended by the Senate Labor, Industry and Professions Committee, requires depository institutions (State and federally chartered banks, savings banks, savings and loan associations and credit unions) in this State to make available to consumers a New Jersey Consumer Checking Account which must be used primarily for personal, family or household purposes. No depository institution is required to offer this account at a cost to the institution which is below its actual cost of providing such an account. The bill requires the Commissioner of Banking to establish by regulation all of the following features of the New Jersey Consumer Checking Account which may be stated in terms of a range of options rather than a specific number: the initial deposit amount, if any, required to open a New Jersey Consumer Checking Account; the maximum amount, if any, permitted to be required by the depository institution as a minimum balance to maintain the account; the number of checks, if any, that may be used within a periodic cycle without charge to withdraw funds from the account; the number of other withdrawals, if any, that may be made by a method other than check within a periodic cycle without charge; the maximum amount, if any, that may be charged per periodic cycle for maintaining the account; the maximum number of deposits, if any, that may be made in a periodic cycle without charge; and the maximum amount that may be charged per withdrawal or deposit transaction in excess of the number permitted without charge within a periodic cycle.

As an alternative to the account established by the commissioner, depository institutions may meet the requirement of offering a New Jersey Consumer Checking Account by submitting an account proposal to the commissioner for his review and approval. The commissioner is required to approve or reject the account proposal submitted by a depository institution within 30 business days after receipt of the information on the account. If the commissioner rejects the proposed account, he is required to provide his reasons in writing for doing so.

The bill provides that, prior to establishing features of New Jersey Consumer Checking Accounts or accepting proposals for approval, the commissioner is to review and consider the terms and conditions of those low cost personal checking accounts currently available to New Jersey residents.

In addition, the bill provides that a holder of a New Jersey Consumer Checking Account: is to have the same access to mail or electronic banking services, including direct deposits to the account by payors, as that offered to holders of regular checking accounts at the same depository institution; is not to be assessed any fee in excess of the usual fee or charge made by the depository institution to its regular checking account customers; and is to be offered, except as otherwise provided in the bill, all products and services the depository institution offers to holders of regular checking accounts.

A depository institution is permitted to close a New Jersey Consumer Checking Account using the same standards for fraudulent activity and overdrafts it applies to holders of regular checking accounts and it may close or refuse to open a New Jersey Consumer Checking Account if a consumer has a regular checking account or another New Jersey Consumer Checking Account or makes an intentional material misrepresentation in the information provided to the depository institution to open the account.

Every depository institution is required to post a conspicuous notice and provide material in a public area in each office to inform consumers of the availability of a New Jersey Consumer Checking Account and to describe the material features and limitations of such an account.

A depository institution may not require any holder of a New Jersey Consumer Checking Account to have any other account at that or any other depository institution or have a credit card issued by it or any other depository institution as a condition to opening or maintaining a New Jersey Consumer Checking Account.

The commissioner may, after notice and hearing, order a depository institution that commits a violation of any provision of this bill to cease the violation, or to pay a civil penalty not in excess of \$500 for each day the violation continues, or both.

The committee eliminated the provision in the bill which provided that a depository institution could choose to make its New Jersey Consumer Checking Accounts available only to low-income consumers.

SENATE SLI COMMITTEE

AMENDMENTS

to

ADOPTED

MAY 13 1991

ASSEMBLY No. 1179 (ACS) (1R)

(Sponsored by Assemblywoman Kalik and Assemblyman Roberts)

REPLACE SECTION 2 TO READ:

2. As used in this act:

"Account" means an account in a depository institution with respect to which the account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others, including a demand deposit account, negotiable order of withdrawal account, draft account, savings deposit account subject to automatic transfers, share draft account, and all savings deposit and share accounts other than time deposit accounts.

"Business day" means any day other than a Saturday, Sunday or legal holiday.

"Check" means any check ¹as defined in N.J.S.12A:3-104¹, share draft, negotiable order of withdrawal, or similar means of making payment or transfers to third parties or others which is drawn on ¹an account in¹ a depository institution and is payable on demand.

"Consumer" means a natural person ¹who resides in this State¹.

"Commissioner" means the Commissioner of Banking.

"Depository institution" means a State or federally chartered bank, savings bank, savings and loan association or credit union doing business in this State.

"Electronic branch" means automatic teller machines (ATMs) and similar technology which may be used by customers of a depository institution in connection with a customer's account.

²¹Low-income consumer" means a consumer whose household income in the immediately preceding year did not exceed 80% of the median household income in this State as last reported by the New Jersey Department of Labor from data obtained in the March supplement of the Current Population Survey of the United States Bureau of the Census.¹²

"New Jersey Consumer Checking Account" means a deposit account ¹established pursuant to section 3 of this act¹ and with respect to which the account holder is permitted to make payments to third parties or others by check ¹[that is: a. held by the consumer, and b. used primarily for personal, family or household purposes]¹.

"Office" includes the home office of a depository institution and any office approved as a branch of the depository institution by its federal or State supervisory agency, but excludes free-standing electronic branches.

"Periodic account statement" means any written statement provided on a regular basis ¹at the end of each periodic cycle¹ by a depository institution to an account holder that reflects all debits and credits to an account held by the account holder ¹[for the period represented by the statement] during a periodic cycle.

"Periodic cycle" means a period of time which is equal to or shorter than a calendar quarter and, if shorter than a calendar quarter, divides a calendar quarter into approximately equal units of time¹.

"Regular checking account" means that type of checking, demand deposit, negotiable order of withdrawal, ¹share draft account,¹ or similar account, other than a New Jersey Consumer Checking Account, offered by the depository institution, which is held by more consumers than any other such account offered by the depository institution.

REPLACE SECTION 3 TO READ:

3. a. Every depository institution that maintains regular checking accounts in this State shall make available to consumers a New Jersey Consumer Checking Account at all offices of that depository institution where regular checking accounts are offered or available. ¹A New Jersey Consumer Checking Account shall be used primarily for personal, family, or household purposes.¹ No depository institution shall be required to offer a New Jersey Consumer Checking Account at a cost which is below its actual cost to provide such an account ¹[, nor shall its charges to an account holder be more than 10% above its actual costs to provide such an account]. The calculation made by a depository institution of the actual cost of providing a New Jersey Consumer Checking Account shall be determinative in the absence of mathematical error or a request from the commissioner for other data and information deemed relevant or appropriate for evaluating the actual cost of providing a New Jersey Consumer Checking Account¹. New Jersey Consumer Checking Accounts shall contain the features specified in subsection c. of this section ¹or be an account the features and terms of which have been approved by the commissioner pursuant to subsection d. of this section.

²[Notwithstanding the provisions of this subsection to the contrary, a depository institution may make available a New Jersey Consumer Checking Account only to a low-income consumer or consumers.]²

b. An ¹[application] applicant¹ for a New Jersey Consumer Checking Account shall ¹[contain the date of application and the name, address, social security number, and handwritten signature of the consumer as well as other information the commissioner reasonably determines to be necessary. At the time of application, the consumer may be required by the depository institution to present identification in such form as the commissioner may require by regulation and may be required by the depository institution to sign a document in which he states whether he has or has applied for any account, other than the New Jersey Consumer Checking Account he is applying for, at that depository institution or any other depository institution] provide the depository institution with the same information an applicant for a regular checking account is required to provide at that depository institution ²[and shall also provide, if requested by the depository institution, other information by which the depository institution is able to determine a consumer's household income]¹².

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

(1) the initial deposit amount¹, if any,¹ necessary to open a New Jersey Consumer Checking Account¹, if any¹;

(2) the maximum amount¹, if any,¹ permitted to be required by a depository institution as a minimum balance necessary to maintain the account¹, if any¹;

(3) the number of checks, if any, that may be used within a ¹[monthly] periodic¹ cycle without charge to withdraw funds from the account;

(4) the number of other withdrawals, if any, that may be made by a method other than check within a ¹[monthly] periodic¹ cycle without charge;

(5) a maximum amount¹, if any,¹ that may be charged per ¹[month] periodic cycle¹ for maintaining the account¹, if any¹; ¹[and]¹

(6) ¹the maximum number of deposits, if any, that may be made in a periodic cycle without charge; and

(7)¹ a maximum amount that may be charged per transaction in excess of the number permitted under paragraphs (3) ¹[and] ¹(4) ¹and (6)¹ of this subsection.

d. ¹(1) Notwithstanding the provisions of subsection c. of this section, a depository institution may establish a New Jersey Consumer Checking Account by submitting an account to the commissioner for approval as a New Jersey Consumer Checking Account by providing the commissioner information which details the features and terms of the account.

(2) The commissioner shall approve or reject the account as a New Jersey Consumer Checking Account within 30 business days of receipt of the information from a depository institution.

(3) If the commissioner does not approve an account as a New Jersey Consumer Checking Account, the commissioner shall provide to the depository institution, in writing, the reasons for his decision.

e.¹ ²The commissioner shall, prior to promulgating regulations pursuant to subsection c. of this section or accepting any account for approval pursuant to subsection d. of this section, review the terms and conditions of the low cost personal checking accounts currently available to consumers in this State and shall consider those terms and conditions in complying with the provisions of subsections c. and d. of this section.

f.² The holder of a New Jersey Consumer Checking Account shall:

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

(2) not be assessed any fee in excess of the usual fee or charge made by the depository institution to its regular checking account holders ¹[for:

- ~~(a) stopping payment of a check;~~
- (b) a check drawn on the account being dishonored;
- (c) providing checks;
- (d) any of the following services if provided by the depository institution:
 - (i) money orders;
 - (ii) cashier's checks;
 - (iii) certified checks; and
 - (iv) return of cancelled checks; or
 - (e) any other services other than services specified in subsection c. of this section and paragraph (1) of this subsection.

(3) not be assessed any monthly, per transaction or other fee or charge, except for the fees permitted under paragraphs (5) and (6) of subsection c. of this section and paragraph (2) of this subsection, for:

- (a) any deposit of funds into the account;
- (b) maintaining the account;
- (c) inactivity of the account;
- (d) any balance inquiry; or
- (e) closing the account¹.

¹[e.] ²[f.] ¹ g.² A depository institution shall provide ¹[, at the end of every monthly cycle.] a periodic account statement¹ to every holder of a New Jersey Consumer Checking Account ¹[a periodic account statement listing all transactions for the monthly cycle involved]¹.

¹[f.] ²[g.] ¹h. ²A depository institution may close ¹a New Jersey Consumer Checking Account under the same standards for fraudulent activity and overdrafts as it applies to holders of regular checking accounts at the depository institution¹ or ¹close or¹ refuse to open a New Jersey Consumer Checking Account if the consumer:

(1) has a regular checking account or another New Jersey Consumer Checking Account in that depository institution or in any other depository institution; ¹or¹

(2) makes an intentional material misrepresentation in the information provided to the depository institution to open the account¹;

(3) has engaged in a pattern of Fraudulent activity involving an account; or

(4) has had three or more occurrences on which checks were not paid, during the prior six-month period, because the consumer did not have sufficient funds in the account on which the checks were drawn¹.

¹[g.] ²[h.] ¹i. ²A depository institution shall not require any holder of a New Jersey Consumer Checking Account to have any other account at that or any other depository institution or have a credit card issued by it or any other depository institution as a condition to opening or maintaining a New Jersey Consumer Checking Account ¹[, and shall not impose any other requirement with respect to a New Jersey Consumer Checking Account that would tend to discriminate against low-income consumers in opening, maintaining or using such accounts]¹.

REPLACE SECTION 7 TO READ:

7. Upon a finding by the commissioner, after notice and an opportunity for hearing, of a violation by any depository institution of any provision of this act, or any regulation or order of the commissioner issued pursuant thereto, the commissioner may order the depository institution to cease any violation ¹[or to pay a civil penalty not in excess of \$500 for each day that the violation has continued, or both, the penalty being recoverable under "the penalty enforcement law," N.J.S.2A:58-1 et seq]¹ ²or to pay a civil penalty not in excess of \$500 for each day that the violation has continued, or both, the penalty being recoverable under "the penalty enforcement law," N.J.S.2A:58-1 et seq².



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OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001
Contact:

TRENTON, N.J. 08625
Release:

Emma Byrne, Nancy Kearney
609/292-8956
Chris Cooney, Banking
609/292-7001

Tuesday
July 16, 1991

GOVERNOR FLORIO SIGNS NO-FRILLS BANKING BILL New Jersey First State To Require Such Services

CHERRY HILL -- New Jersey's state-chartered banks will be the first in the nation to be required to offer consumers a no-frills checking account aimed at expanding availability of banking services to people who are often forced to go without banks because service fees cost too much, under a law signed today by Governor Jim Florio.

"Banks and bank accounts are no longer a luxury. They've become a necessity. The system as it exists now is extremely unfair. The people who can least afford it have to pay a premium price to cash their checks," said Governor Jim Florio, at Cherry Hill's Commerce Bank. "Too many people do not have bank accounts, specifically checking accounts. Most banks charge for checking accounts, unless their customers keep a minimum of several hundred dollars in the account. Then, they're free. But for people who have to live paycheck to paycheck, the burden is just too great. This bill gives relief to people who need it the most."

Recent increases in bank charges for basic services, like simple check cashing and maintenance of checking accounts, have raised concerns especially among young and elderly New Jerseyans. The bill, A 1179, sponsored by Assemblywoman Barbara Kalik and Assemblyman Joseph Roberts, creates the New Jersey Consumer Checking Account, aimed at those who write few monthly checks or maintain a balance below the bank's usual cutoff for free checking eligibility.

Banking Commissioner Jeffrey Connor will, by regulation, set standards saying that a basic checking account must include certain statutory minimums such as access to Automated Teller Machines, eliminate minimum monthly balance requirements and offer limited free checks. Customers will still be subject to the same bank penalties for "bounced" checks.

Once the Commissioner proposes the regulations, they will be subject to public hearings. Once adopted, banks will each draw up a Check Cashing Plan for the Commissioner's approval and have 120 days to implement the plan. It is anticipated that the new checking account system will be on line by fall. The new law will affect the majority of New Jersey institutions, including state-chartered banks, savings and loans, and savings banks. For the banks, this will be a 'break-even' proposition. They won't be making any money on these accounts, but they won't be losing any either.

"This program isn't a hand out. It's a hand up, and it's going to simplify a lot of lives. From now on, people can get a 100 percent of their check when they go to cash it. They won't have to hide their money in a cookie jar or a mattress," said Governor Florio. "And perhaps most important, they'll be able to pay their bills by check, instead of having to wait in long lines and carry cash to pay the phone bill, the gas bill and the electric bill. I'm proud to sign this bill into law because once again, New Jersey is first in the nation to take an important step toward opportunity and justice."

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