

43:16A-1

LEGISLATIVE HISTORY CHECKLIST
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(PERS--mortgage loans)

NJSA: 43:16A-1

LAWS OF: 1991

CHAPTER: 414

BILL NO: S3771

SPONSOR(S): Lynch

DATE INTRODUCED: December 9, 1991

COMMITTEE: ASSEMBLY: —

SENATE: State Government

AMENDED DURING PASSAGE: Yes
according to Governor's
recommendations

Amendments during passage denoted by
asterisks

DATE OF PASSAGE: ASSEMBLY: January 10, 1992 Re-enacted 1-13-92

SENATE: January 9, 1992 Re-enacted 1-13-92

DATE OF APPROVAL: January 17, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY:

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG/pp

[FIRST REPRINT]
SENATE, No. 3771

STATE OF NEW JERSEY

INTRODUCED DECEMBER 9, 1991

By Senators LYNCH and COWAN

1 AN ACT making certain mortgage loans from the Police and
2 Firemen's Retirement System of New Jersey available to
3 members of the retirement system and amending and
4 supplementing P.L.1944, c.255.

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

8 1. Section 1 of P.L.1944, c.255 (C.43:16A-1) is amended to
9 read as follows:

10 1. As used in this act:

11 (1) "Retirement system" shall mean the Police and Firemen's
12 Retirement System of New Jersey as defined in section 2 of this
13 act.

14 (2) (a) "Policeman" shall mean a permanent, full-time
15 employee of a law enforcement unit as defined in section 2 of
16 P.L.1961, c.56 (C.52:17B-67) or the State, other than an officer
17 or trooper of the Division of State Police whose position is
18 covered by the State Police Retirement System, whose primary
19 duties include the investigation, apprehension or detention of
20 persons suspected or convicted of violating the criminal laws of
21 the State and who:

22 (i) is authorized to carry a firearm while engaged in the actual
23 performance of his official duties;

24 (ii) has police powers;

25 (iii) is required to complete successfully the training
26 requirements prescribed by P.L.1961, c.56 (C.52:17B-66 et seq.)
27 or comparable training requirements as determined by the board
28 of trustees; and

29 (iv) is subject to the physical and mental fitness requirements
30 applicable to the position of municipal police officer established
31 by an agency authorized to establish these requirements on a
32 Statewide basis, or comparable physical and mental fitness
33 requirements as determined by the board of trustees.

34 The term shall also include an administrative or supervisory
35 employee of a law enforcement unit or the State whose duties
36 include general or direct supervision of employees engaged in
37 investigation, apprehension or detention activities or training
38 responsibility for these employees and a requirement for

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:

¹Senate amendments adopted in accordance with Governor's
recommendations January 13, 1992.

1 engagement in investigation, apprehension or detention activities
2 if necessary, and who is authorized to carry a firearm while in
3 the actual performance of his official duties and has police
4 powers.

5 (b) "Fireman" shall mean a permanent, full-time employee of
6 a firefighting unit whose primary duties include the control and
7 extinguishment of fires and who is subject to the training and
8 physical and mental fitness requirements applicable to the
9 position of municipal firefighter established by an agency
10 authorized to establish these requirements on a Statewide basis,
11 or comparable training and physical and mental fitness
12 requirements as determined by the board of trustees. The term
13 shall also include an administrative or supervisory employee of a
14 firefighting unit whose duties include general or direct
15 supervision of employees engaged in fire control and
16 extinguishment activities or training responsibility for these
17 employees and a requirement for engagement in fire control and
18 extinguishment activities if necessary. As used in this paragraph,
19 "firefighting unit" shall mean a municipal fire department, a fire
20 district, or an agency of a county or the State which is
21 responsible for control and extinguishment of fires.

22 (3) "Member" shall mean any policeman or fireman included in
23 the membership of the retirement system pursuant to this
24 amendatory and supplementary act, P.L.1989, c.204
25 (C.43:16A-15.6 et al.).

26 (4) "Board of trustees" or "board" shall mean the board
27 provided for in section 13 of this act.

28 (5) "Medical board" shall mean the board of physicians
29 provided for in section 13 of this act.

30 (6) "Employer" shall mean the State of New Jersey, the
31 county, municipality or political subdivision thereof which pays
32 the particular policeman or fireman.

33 (7) "Service" shall mean service as a policeman or fireman
34 paid for by an employer.

35 (8) "Creditable service" shall mean service rendered for which
36 credit is allowed as provided under section 4 of this act.

37 (9) "Regular interest" shall mean interest as determined
38 annually by the State Treasurer after consultation with the
39 Directors of the Divisions of Investment and Pensions and the
40 actuary of the system. It shall bear a reasonable relationship to
41 the percentage rate of earnings on investments but shall not
42 exceed 105% of such percentage rate.

43 (10) "Aggregate contributions" shall mean the sum of all the
44 amounts, deducted from the compensation of a member or
45 contributed by him or on his behalf, standing to the credit of his
46 individual account in the annuity savings fund.

47 (11) "Annuity" shall mean payments for life derived from the
48 aggregate contributions of a member.

1 (12) "Pension" shall mean payments for life derived from
2 contributions by the employer.

3 (13) "Retirement allowance" shall mean the pension plus the
4 annuity.

5 (14) "Earnable compensation" shall mean the full rate of the
6 salary that would be payable to an employee if he worked the full
7 normal working time for his position. In cases where salary
8 includes maintenance, the retirement system shall fix the value
9 of that part of the salary not paid in money which shall be
10 considered under this act.

11 (15) "Average final compensation" shall mean the average
12 annual salary upon which contributions are made for the three
13 years of creditable service immediately preceding his retirement
14 or death, or it shall mean the average annual salary for which
15 contributions are made during any three fiscal years of his or her
16 membership providing the largest possible benefit to the member
17 or his beneficiary.

18 (16) "Retirement" shall mean the termination of the
19 member's active service with a retirement allowance granted
20 and paid under the provisions of this act.

21 (17) "Annuity reserve" shall mean the present value of all
22 payments to be made on account of any annuity or benefit in lieu
23 of any annuity computed upon the basis of such mortality tables
24 recommended by the actuary as shall be adopted by the board of
25 trustees, and regular interest.

26 (18) "Pension reserve" shall mean the present value of all
27 payments to be made on account of any pension or benefit in lieu
28 of any pension computed upon the basis of such mortality tables
29 recommended by the actuary as shall be adopted by the board of
30 trustees, and regular interest.

31 (19) "Actuarial equivalent" shall mean a benefit of equal value
32 when computed upon the basis of such mortality tables
33 recommended by the actuary as shall be adopted by the board of
34 trustees, and regular interest.

35 (20) "Beneficiary" shall mean any person receiving a
36 retirement allowance or other benefit as provided by this act.

37 (21) "Child" shall mean a deceased member's or retirant's
38 unmarried child (a) under the age of 18, or (b) 18 years of age or
39 older and enrolled in a secondary school, or (c) under the age of
40 24 and enrolled in a degree program in an institution of higher
41 education for at least 12 credit hours in each semester, provided
42 that the member died in active service as a result of an accident
43 met in the actual performance of duty at some definite time and
44 place, and the death was not the result of the member's willful
45 misconduct, or (d) of any age who, at the time of the member's
46 or retirant's death, is disabled because of mental retardation or
47 physical incapacity, is unable to do any substantial, gainful work
48 because of the impairment and his impairment has lasted or can

1 be expected to last for a continuous period of not less than 12
2 months, as affirmed by the medical board.

3 (22) "Parent" shall mean the parent of a member who was
4 receiving at least one-half of his support from the member in the
5 12-month period immediately preceding the member's death or
6 the accident which was the direct cause of the member's death.
7 The dependency of such a parent will be considered terminated by
8 marriage of the parent subsequent to the death of the member.

9 (23) "Widower" shall mean the man to whom a member or
10 retirant was married at least two years before the date of her
11 death and to whom she continued to be married until the date of
12 her death and who was receiving at least one-half of his support
13 from the member or retirant in the 12-month period immediately
14 preceding the member's or retirant's death or the accident
15 which was the direct cause of the member's death. The
16 dependency of such a widower will be considered terminated by
17 marriage of the widower subsequent to the death of the member
18 or retirant. In the event of the payment of an accidental death
19 benefit, the two-year qualification shall be waived.

20 (24) "Widow" shall mean the woman to whom a member or
21 retirant was married at least two years before the date of his
22 death and to whom he continued to be married until the date of
23 his death and who has not remarried. In the event of the payment
24 of an accidental death benefit, the two-year qualification shall
25 be waived.

26 (25) "Fiscal year" shall mean any year commencing with July
27 1, and ending with June 30, next following.

28 (26) "Compensation" shall mean the base salary, for services as
29 a member as defined in this act, which is in accordance with
30 established salary policies of the member's employer for all
31 employees in the same position but shall not include individual
32 salary adjustments which are granted primarily in anticipation of
33 the member's retirement or additional remuneration for
34 performing temporary duties beyond the regular workday.

35 (27) "Department" shall mean any police or fire department of
36 a municipality or a fire department of a fire district located in a
37 township or a county police or park police department or the
38 appropriate department of the State or instrumentality thereof.

39 (28) "Final compensation" means the compensation received
40 by the member in the last 12 months of creditable service
41 preceding his retirement.

42 (29) "Mortgage loan" shall mean any indebtedness secured by a
43 mortgage on a residential property, which mortgage shall
44 constitute a first lien on that property.

45 (30) "Residential property" shall mean any real property
46 including land or, in the case of condominiums, an interest in a
47 lot of land, which real property shall consist of a single one- or
48 two-family dwelling, including appropriate garages or other

1 outbuildings.

2 (cf: P.L.1989, c.204, s.1)

3 2. (New section) a. In addition to any loan for which he may
4 be eligible pursuant to the provisions of section 18 of P.L.1964,
5 c.241 (C.43:16A-16.1), and notwithstanding the provisions to the
6 contrary of that or any other law, any member who, at the time
7 of application, is employed by the State of New Jersey or a
8 county, municipality or other political subdivision of this State
9 and who has at least one year of creditable service is, for the
10 purpose of securing for his own occupation as his principal
11 residence a residential property located within this State,
12 eligible to receive from the retirement system a mortgage loan.
13 Such a mortgage loan shall be used only for the purpose of
14 enabling a borrower to acquire or construct a residential property
15 or refinance an existing residential property loan.

16 No member shall be eligible hereunder for more than one
17 outstanding mortgage loan at any time, and no member shall be
18 eligible to receive a second mortgage loan on a residential
19 property already mortgaged by him. Preference shall be given in
20 making loans to members who are applying to acquire or
21 construct their first principal place of residence.

22 b. Any mortgage loan made pursuant to the provisions of this
23 act, together with any interest and expenses to the retirement
24 system associated with the making of that loan, shall be repaid to
25 the retirement system in equal installments.

26 c. The amount of interest charged with respect to a mortgage
27 loan made pursuant to the provisions of this act shall be fixed for
28 the entire term of the loan ¹[at an annual rate of 7.75%]. The
29 New Jersey Housing and Mortgage Finance Agency, established
30 under section 4 of P.L.1983, c.530 (C.55:14K-4), shall initially
31 establish the rate within 120 days of the effective date of this
32 act and semi-annually reset the rate thereafter. The rate shall
33 be determined by the New Jersey Housing and Mortgage Finance
34 Agency by adding 2% to the index. For the purposes of this act,
35 the index shall be the weekly average yield at the time the rate is
36 reset on one-year United States Treasury securities adjusted to a
37 constant maturity as made available by the Federal Reserve
38 Board¹. The term of any mortgage loan so made shall not exceed
39 30 years.

40 d. No mortgage loan made pursuant to the provisions of this
41 act shall be sold, transferred or assigned to any person, nor shall
42 the payments with respect to any mortgage loan so made be
43 assumed by any person other than the member to whom that loan
44 was made, except that in the event of the death of a member, the
45 mortgage may be assignable to a surviving spouse if the spouse is
46 the sole heir to the property.

47 e. The instrument evidencing a mortgage loan under the
48 provisions of this act may be in such form, and may contain such

1 provisions, not inconsistent with law, as the retirement system
2 may choose to insert for the protection of its lien and the
3 preservation of its interest in the real property mortgaged to it.

4 3. (New section) The New Jersey Housing and Mortgage
5 Finance Agency, established under section 4 of P.L.1983, c.530
6 (C.55:14K-4), shall administer the mortgage program for the
7 board. The New Jersey Housing and Mortgage Finance Agency
8 shall: a. originate loans on behalf of the board; b. appraise the
9 value of any real property eligible to be mortgaged under this
10 act; c. guarantee and insure title to the real property; and d.
11 perform any other service necessary to accomplish the purposes
12 of this act in a manner consistent with the protection of the
13 rights of beneficiaries of the retirement system. The cost of the
14 performance of these services in connection with the making of a
15 mortgage loan shall be charged to the borrower and included in
16 the amount of that mortgage loan.

17 4. (New section) The New Jersey Housing and Mortgage
18 Finance Agency shall set mortgage loan standards and guidelines
19 for loans made pursuant to this act, including mortgage loan
20 maturity terms, participation fees, mortgage loan insurance
21 requirements, lender compensation rates, servicing fees,
22 loan-to-value ratios, minimum and maximum mortgage loan
23 amounts, and eligibility standards consistent with section 2 of
24 this act.

25 5. (New section) Any member receiving a mortgage loan
26 pursuant to the provisions of this act shall, within 120 days of the
27 date on which the retirement system made that loan, occupy the
28 residence as his principal dwelling place. If any member
29 receiving a mortgage loan pursuant to the provisions of this act
30 sells, or ceases to occupy as his residence and principal dwelling
31 place, that residential property, the entire amount of that
32 mortgage loan, together with any accrued interest thereon, shall
33 be due and payable on the 120th day following that action.

34 If any member receiving a mortgage loan pursuant to the
35 provisions of this act terminates, for any reason other than death,
36 retirement, or layoff, including deferred and disability
37 retirement, his employment with State government or a county,
38 municipality or other political subdivision, the entire amount of
39 that mortgage loan, together with any accrued interest thereon,
40 shall be due and payable 120 days following that action.

41 6. (New section) a. Notwithstanding any limitations,
42 conditions, restrictions or authorizations regarding the
43 investment or reinvestment of the moneys of the retirement
44 system contained in section 11 of P.L..1950, c.270 (C.52:18A-89),
45 in section 9 of P.L.1959, c.17 (C.52:18A-88.1) or in any other law,
46 upon application of a member for a mortgage loan the retirement
47 system shall, within 90 days, make available to the New Jersey
48 Housing and Mortgage Finance Agency sufficient funds to provide

1 mortgage loans in accordance with the provisions of this act,
2 except that the retirement system shall make no mortgage loan
3 at any time when the total of all principal balances owing to the
4 retirement systems on mortgage loans, less all write-offs and
5 reserves with respect to these mortgage loans, together exceeds,
6 or by the making of the loan would exceed, 10% of the total
7 investment assets, including mortgage loans, of the retirement
8 system. Every mortgage loan made hereunder shall be evidenced
9 by a note or bond and shall be secured by a mortgage on the fee
10 of real property located within this State. Every mortgage shall
11 be certified to be a first lien by an attorney-at-law of this State
12 or certified or guaranteed to be a first lien by a corporation
13 authorized to guarantee titles to land in this State. For the
14 purposes of this section, a mortgage shall be deemed to be a first
15 lien, notwithstanding the existence of a lien for current taxes or
16 assessments not due or payable at the time the loan is made, and
17 notwithstanding the existence of leases, building restrictions,
18 easements, encroachments, or covenants which, do not materially
19 lessen the value of the real property to be mortgaged.

20 b. Pursuant to rules established by the New Jersey Housing and
21 Mortgage Finance Agency, no mortgage loan shall be made under
22 this act except upon a written certification signed by at least two
23 persons appointed or retained by the appraisers. In the case of a
24 mortgage loan secured by a mortgage upon real property, such
25 certification shall state the opinion of such persons as to the
26 value of the land and the improvements thereon or to be erected
27 thereon and the character of such improvements. Such
28 certification shall be filed with the records of the retirement
29 system and shall be preserved until the retirement system has no
30 interest, as mortgagee or otherwise, in the real property.

31 c. The retirement system shall make no mortgage loan secured
32 by a mortgage on real property unless the property shall consist
33 of improved real property, or unimproved real property if the
34 proceeds of such loan shall be used for the purposes of erecting
35 improvements thereon.

36 7. (New section) The State Treasurer shall, with the advice of
37 the Commissioner of the Department of Banking, the Director of
38 the Division of Pensions, and the Executive Director of the New
39 Jersey Housing and Mortgage Finance Agency and in accordance
40 with the "Administrative Procedure Act," P.L.1968, c.410
41 (C52:14B-1 et seq.), promulgate any rules and regulations
42 necessary to accomplish the purposes of this act in a manner
43 consistent with the protection of the rights of members and
44 beneficiaries of the retirement system.

45 8. This act shall take effect 90 days from enactment ¹and
46 shall expire five years after the effective date¹.

S3771 [1R]

8

1

PUBLIC EMPLOYEE BENEFITS

2

3 Provides for certain mortgage loans to be made from PFRS to
4 members thereof.

1 notwithstanding the existence of leases, building restrictions,
2 easements, encroachments, or covenants which, do not materially
3 lessen the value of the real property to be mortgaged.

4 b. Pursuant to rules established by the New Jersey Housing and
5 Mortgage Finance Agency, no mortgage loan shall be made under
6 this act except upon a written certification signed by at least two
7 persons appointed or retained by the appraisers. In the case of a
8 mortgage loan secured by a mortgage upon real property, such
9 certification shall state the opinion of such persons as to the
10 value of the land and the improvements thereon or to be erected
11 thereon and the character of such improvements. Such
12 certification shall be filed with the records of the retirement
13 system and shall be preserved until the retirement system has no
14 interest, as mortgagee or otherwise, in the real property.

15 c. The retirement system shall make no mortgage loan secured
16 by a mortgage on real property unless the property shall consist
17 of improved real property, or unimproved real property if the
18 proceeds of such loan shall be used for the purposes of erecting
19 improvements thereon.

20 7. (New section) The State Treasurer shall, with the advice of
21 the Commissioner of the Department of Banking, the Director of
22 the Division of Pensions, and the Executive Director of the New
23 Jersey Housing and Mortgage Finance Agency and in accordance
24 with the "Administrative Procedure Act," P.L.1968, c.410
25 (C52:14B-1 et seq.), promulgate any rules and regulations
26 necessary to accomplish the purposes of this act in a manner
27 consistent with the protection of the rights of members and
28 beneficiaries of the retirement system.

29 8. This act shall take effect 90 days from enactment.
30
31

32 STATEMENT

33
34 This legislation provides for the making of mortgage loans to
35 members of the Police and Firemen's Retirement System from
36 the funds of the system. Such loans would be required to be made
37 on property which is the principal residence of the member, and
38 could be made to any member of the pension systems who has one
39 year of service or more. Every loan would be required to be a
40 first lien on real property, and the dwelling would be required to
41 be the principal residence of the borrower.

42 The loans would be required to be made by the fund at an
43 interest rate of 7.75%. The term of the loans would be not more
44 than 30 years.
45

46 PUBLIC EMPLOYEE BENEFITS

47
48
49 Provides for certain mortgage loans to be made from PFRS to
50 members thereof.

SENATE STATE GOVERNMENT AND FEDERAL
AND INTERSTATE RELATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3771

STATE OF NEW JERSEY

DATED: DECEMBER 19, 1991

The Senate State Government and Federal and Interstate Relations Committee reports favorably Senate, No. 3771.

This bill provides that members of the Police and Firemen's Retirement System shall be eligible to receive a mortgage loan from the retirement system. To be eligible, a member must have at least one year of service, the loan must be for property which is to be the member's principal place of residence, and the loan must be a first lien on real property. The mortgage loans would be used only for the purpose of enabling a borrower to acquire or construct a residential property or refinance an existing residential property.

Loans would be made at an interest rate of 7.75% and the term of the loan could not exceed 30 years. The New Jersey Housing and Mortgage Finance Agency shall administer the program and set mortgage loan standards and guidelines.

The retirement system shall make no mortgage loan when the total of all principal balances owing to the retirement system on mortgage loans would exceed 10% of the total investments, including mortgage loans, of the retirement system.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

January 13, 1992

SENATE BILL NO. 3771

To the Senate:

Pursuant to Article V, Section I, Paragraph 14, of the New Jersey Constitution, I am returning Senate Bill No. 3771 with my objections for reconsideration.

This bill would establish a program for the making of mortgage loans to members of the Police and Firemen's Retirement System (PFRS) with at least one year of service. The legislation would require that the mortgaged property be residential property within this State to be occupied by the member as his or her residence. The bill fixes the mortgage rate at 7.75 percent and provides that mortgage loans made from the fund may not exceed 30 years.

I support the purpose of this legislation which is to allow members of the PFRS system to obtain affordable mortgages from the retirement system that they fund. This program will allow police and firemen the opportunity to avail themselves of affordable mortgages so that they may invest in a home. The legislation contains safeguards to protect the pension fund while allowing those who contribute to the fund to borrow against it with appropriate restrictions.

However, I am concerned that permanently fixing the mortgage rate in this legislation may not provide the appropriate flexibility necessary to adjust mortgage rates to market conditions in order to allow members to receive loans at the appropriate rate. Just a few years ago, mortgage rates were in the double digits. Now they are well below 10 percent and still falling. The amendments I propose to this legislation would allow the rate to be adjusted semi-annually by the New Jersey Housing and Mortgage Finance Agency (HMFA). This change is necessary to allow members to obtain an

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

2

affordable mortgage rate and to protect the fiscal integrity of the fund. In addition, I want to ensure that there is an opportunity to evaluate the impact of this program upon the members and the fund. Accordingly, I am recommending that the bill be amended to allow the program to function for a five-year period. This will not affect mortgages approved during this five-year period.

Accordingly, I herewith return Senate Bill No. 3771 and recommend that it be amended as follows:

Page 5, Section 2, Line 24:

After "the entire term of the loan" delete "at an annual rate of 7.75%" insert ". The New Jersey Housing and Mortgage Finance Agency, established under section 4 of P.L.1983, c.530 (C.55:14K-4), shall initially establish the rate within 120 days of the effective date of this act and semi-annually reset the rate thereafter. The rate shall be determined by the New Jersey Housing and Mortgage Finance Agency by adding 2% to the index. For the purposes of this act, the index shall be the weekly average yield at the time the rate is reset on one-year United States Treasury securities adjusted to a constant maturity as made available by the Federal Reserve Board"

Page 7, Section 8, Line 29:

After "90 days from enactment" insert "and shall expire five years after the effective date"

Respectfully,

/s/ Jim Florio

GOVERNOR

[seal]

Attest:

/s/ Elizabeth A. Ryan

Assistant Counsel to the Governor