

December 11, 1970

LEGISLATIVE HISTORY OF R.S. 54:10B-2 et seq.  
(Taxation of financial business - increase to 1 1/2%)  
(1970 amendment)

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Hearing on bill in previous year:

974.90 N.J. Legislature. Assembly. Committee  
T235 on Taxation.  
1969a Public hearing ... on A1075, 1078, 1079  
(increasing tax on bank stock, etc.) Held  
Sept. 4, 11, 25, 1969.

Clippings on 1969 attempt at:

V.F.--N.J.--Banks & banking--Taxation (1969).

Articles on 1969 attempt:

"New tax plan endangers reserves"  
974.905 Savings & loan guide, July 1969. (cop. encl.)  
S26

"Business waging two-front campaign opposing, state, federal  
tax hike plans"

974.905 Savings & loan guide, Sept. 1969 (cop. encl.)  
S26

L. 1970, Chapter 9 - A418  
Introduced January 20 by DeKorte.  
Not amended during passage.  
No statement.

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ASSEMBLY, No. 418

STATE OF NEW JERSEY

INTRODUCED JANUARY 20, 1970

By Assemblyman DE KORTE

Referred to Committee on Taxation

AN ACT to increase the rate of taxation upon financial businesses and amending "An act to impose an excise tax upon certain financial businesses," approved April 26, 1946 (P. L. 1946, c. 174).

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

1 1. Section 2 of P. L. 1946, chapter 174 (C. 54:10B-2) is amended  
2 to read as follows:

3 2. Definitions. For the purposes of this act, unless the context  
4 otherwise requires:

5 (a) ["Commissioner"] "Director" shall mean the Director of  
6 the Division of Taxation of the State Department of [Taxation and  
7 Finance] the Treasury.

8 (b) "Financial business" shall mean all business enterprise  
9 which is (1) in substantial competition with the business of national  
10 banks and which (2) employs moneyed capital with the object of  
11 making profit by its use as money, through discounting and negotiat-  
12 ing promissory notes, drafts, bills of exchange and other evidences  
13 of debt; buying and selling exchange; making of or dealing in  
14 secured or unsecured loans and discounts; dealing in securities and  
15 shares of corporate stock by purchasing and selling such securities  
16 and stock without recourse, solely upon the order and for the  
17 account of customers; or investing and reinvesting in marketable  
18 obligations evidencing indebtedness of any person, copartnership,  
19 association or corporation in the form of bonds, notes or debentures  
20 commonly known as investment securities; or dealing in or under-  
21 writing obligations of the United States, any State or any political  
22 subdivision thereof, or of a corporate instrumentality of any of  
23 them. This shall include, without limitation of the foregoing busi-  
24 nesses commonly known as industrial banks, dealers in commercial

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

25 paper and acceptances, sales finance, personal finance, small loan  
 26 and mortgage financing businesses, as well as any other enterprise  
 27 employing moneyed capital coming into competition with the busi-  
 28 ness of national banks; provided, that the holding of bonds, notes,  
 29 or other evidences of indebtedness by individual persons not em-  
 30 ployed or engaged in the banking or investment business and rep-  
 31 resenting merely personal investments not made in competition  
 32 with the business of national banks, shall not be deemed financial  
 33 business. Nor shall "financial business" include national banks,  
 34 production credit associations organized under the Farm Credit  
 35 Act of 1933, stock and mutual insurance companies duly author-  
 36 ized to transact business in this State, security brokers or dealers or  
 37 investment companies or bankers not employing moneyed capital  
 38 coming into competition with the business of national banks, or any  
 39 of the following entities organized under the laws of this State:  
 40 credit unions, savings banks, savings and loan and building and loan  
 41 associations, pawnbrokers, and State banks and trust companies.

42 (c) "Net worth" shall mean:

43 (1) In the case of a corporation—the aggregate of the values  
 44 disclosed by the books of the corporation for (1) issued and out-  
 45 standing capital stock, (2) paid-in or capital surplus, (3) earned  
 46 surplus and undivided profits, (4) surplus reserves which can  
 47 reasonably be expected to accrue to holders or owners of equita-  
 48 ble shares, excluding reasonable valuation reserves and (5) the  
 49 amount of all indebtedness owing directly or indirectly to hold-  
 50 ers of 10% or more of the aggregate outstanding shares of the  
 51 taxpayer's capital stock of all classes, as of the close of a tax  
 52 year.

53 (2) In the case of a partnership, individual proprietorship,  
 54 joint venture or any other unincorporated association—the  
 55 aggregate of the values disclosed by the books of the taxpayer  
 56 for capital and undivided profits; provided, that there shall be  
 57 no deduction from assets of debts owing to partners, propri-  
 58 etors or members, as of the close of a tax year.

59 (d) "Tax year" shall mean the calendar year with respect to  
 60 which a tax is measured pursuant to this act.

61 (e) "Taxpayer" shall mean any person, copartnership, associa-  
 62 tion or corporation subject to taxation under this act.

1 2. Section 3 of P. L. 1946, chapter 174 (C. 54:10B-3) is amended  
 2 to read as follows:

3 3. There is hereby imposed upon every person, copartnership,  
 4 association and corporation doing a financial business in this State,  
 5 an annual excise tax, payable in the year [1946] 1970 and in each

6 year thereafter, at the rate of ~~【3/4 of 1%】~~ 1 1/2% upon its net  
7 worth, less the deductions hereinafter allowed, as of the close of  
8 the preceding calendar year, but in no event less than \$25.00. Such  
9 tax shall also be in lieu of any State franchise tax or of any State  
10 or local taxation of, upon or measured by personal property enter-  
11 ing into the determination of net worth.

1 3. Section 5 of P. L. 1946, chapter 174 (C. 54:10B-5) is amended  
2 to read as follows:

3 5. If in the opinion of the ~~【commissioner】~~ *director*, the tax-  
4 payer's books do not disclose fair valuations the ~~【commissioner】~~  
5 *director* may require any additional information which may be  
6 necessary for a reasonable determination of the net worth which,  
7 in his opinion, would reflect the fair value of the assets carried on  
8 the books of the taxpayer, in accordance with sound accounting  
9 principles, and such determination shall be used as net worth for  
10 the purpose of this act.

1 4. Section 10 of P. L. 1946, chapter 174 (C. 54:10B-10) is  
2 amended to read as follows:

3 10. Whenever it shall appear to the ~~【commissioner】~~ *director* that  
4 any taxpayer maintains a place of business outside this State, or  
5 that any agreement, understanding or arrangement exists between  
6 a taxpayer and any corporation, person or firm, for the purpose of  
7 evading tax under this act, or whereby the activity, business,  
8 receipts or net worth of the taxpayer is distorted for such purpose,  
9 the ~~【commissioner】~~ *director* may in his discretion and in such  
10 manner as he may determine, adjust items of net worth, gross  
11 business within and without the State and the allocation of net  
12 worth, or make such other adjustments in any tax report or tax  
13 return as may be necessary for a true and correct determination  
14 of the tax pursuant to this act. The ~~【commissioner】~~ *director* may  
15 require any person or corporation to submit information under  
16 oath, or to permit examination of its books, papers and documents,  
17 as may be necessary to enable him to determine the existence,  
18 nature or extent of an agreement, understanding or arrangement  
19 to which this section relates, whether or not such person or corpora-  
20 tion is subject to the tax imposed by this act.

1 5. Section 13 of P. L. 1946, chapter 174 (C. 54:10B-13) is  
2 amended to read as follows:

3 13. The ~~【commissioner】~~ *director* may by general rule or by  
4 special notice require any taxpayer to submit copies or pertinent  
5 extracts of its Federal income tax returns, or of any other tax  
6 return made to any agency of the Federal Government, or of this  
7 or any other State, or of any statement or registration made pur-

8 suant to any State or Federal law pertaining to securities or  
9 securities exchange regulation, or to the regulation of the business  
10 of the taxpayer.

1 6. Section 14 of P. L. 1946, chapter 174 (C. 54:10B-14) is  
2 amended to read as follows:

3 14. The tax hereby imposed shall be due and payable to the [com-  
4 missioner] *director* on or before April 15 in each year[, except in  
5 the year 1946, when it shall be due and payable in full on or before  
6 October 15]. Each taxpayer shall together with the payment due  
7 hereunder duly execute and file a tax return with the [commis-  
8 sioner] *director*, in such form and containing such information as  
9 he may prescribe, which return shall truly and accurately set forth  
10 its liability under this act.

1 7. Section 15 of P. L. 1946, chapter 174 (C. 54:10B-15) is  
2 amended to read as follows:

3 15. The [commissioner] *director* may grant a reasonable exten-  
4 sion of time for the filing of returns or the payment of tax, or both,  
5 under such conditions, rules and regulations as he shall prescribe,  
6 but no such extension shall be granted beyond December 1 of the  
7 year in which the tax is due. If the time for filing the return shall  
8 be extended, the payment of the tax shall be postponed to the date  
9 fixed by the extension of the time for the filing of the return, but in  
10 every such case the taxpayer shall pay, in addition to the tax,  
11 interest thereon at the rate of 6% per annum from the time when  
12 the return originally was required to be filed to the time of payment  
13 under the extension.

1 8. Section 17 of P. L. 1946, chapter 174 (C. 54:10B-17) is  
2 amended to read as follows:

3 17. The [commissioner] *director* shall design a form of return  
4 and forms for such additional statements or schedules as he may  
5 require to be filed therewith. Such forms shall provide for the  
6 setting forth of such facts as the [commissioner] *director* may  
7 deem necessary for the proper enforcement of this act. He shall  
8 cause a supply thereof to be printed and shall furnish appropriate  
9 blank forms to each taxpayer upon application or otherwise as he  
10 may deem necessary. Failure to receive a form shall not relieve any  
11 taxpayer from the obligation to file a return under the provisions  
12 of this act. Each such return shall be made upon the oath or affirma-  
13 tion of the president, vice-president, or secretary or treasurer of a  
14 corporation, or of a partner or proprietor in the case of other tax-  
15 payers, and in the case of a taxpayer in liquidation or in the hands  
16 of a receiver or trustee, shall be made on the oath or affirmation

17 of the person responsible for the conduct of the affairs of such  
18 taxpayer.

1 9. Section 20 of P. L. 1946, chapter 174 (C. 54:10B-20) is  
2 amended to read as follows:

3 20. In the event of failure or neglect of any taxpayer which is a  
4 foreign corporation to pay the tax imposed by this act, on or before  
5 December 1 in each year, immediate notice thereof may be given by  
6 the **[commissioner]** *director* to the Secretary of State who shall  
7 immediately revoke the certificate of authority of said corporation  
8 to do business in the State of New Jersey and notice of such revoca-  
9 tion shall be given by the Secretary of State to the corporation  
10 affected and thereafter such corporation, so far as the further  
11 transaction of business in the State of New Jersey is concerned,  
12 shall be in the same condition as if no certificate of authority had  
13 ever been issued to it by the Secretary of State, but remedies pro-  
14 vided by this act for the collection of the tax and interest and  
15 penalties shall remain unimpaired. After the revocation of any  
16 such certificate of authority, no new certificate shall be issued by  
17 the Secretary of State to such defaulting corporation until the pay-  
18 ment of all assessments imposed hereunder and remaining unpaid  
19 with penalties and interest and any costs that may have accrued,  
20 such payment to be evidenced by a certificate of the **[commissioner]**  
21 *director*.

1 10. Section 22 of P. L. 1946, chapter 174 (C. 54:10B-22) is  
2 amended to read as follows:

3 22. The **[commissioner]** *director* shall prescribe and issue such  
4 rules and regulations, not inconsistent herewith, for the administra-  
5 tion, interpretation and application of the provisions of this act, as  
6 he may deem necessary.

1 11. Section 24 of P. L. 1946, chapter 174 (C. 54:10B-24) is  
2 amended to read as follows:

3 24. The aggregate amount of tax, interest and penalties payable  
4 pursuant to this act shall upon payment **[**(or credit, as herein pro-  
5 vided for 1946)**]** be distributed among *the State and* the various  
6 taxing districts and counties in which taxpayers hereunder have  
7 maintained places of business at any time during the tax year. On  
8 or before November 1 in each year, the **[commissioner]** *director*  
9 shall determine from net worth allocations contained in tax returns  
10 filed in the same year the aggregate amount of tax, interest and  
11 penalties attributable to places of business located in each of the  
12 various taxing districts of this State during the tax year. He shall  
13 apportion **[1/2]** 1/4 of the amount so determined to each taxing  
14 district, respectively, **[1/2]** 1/4 thereof to the county in which the

15 taxing district is located *and 1/2 thereof to the State*. The [com-  
16 missioner] *director* shall forthwith certify such apportionment to  
17 the State [Commissioner of Taxation and Finance] *Treasurer*, who  
18 shall upon proper audit transmit to each county treasurer a cer-  
19 tificate showing the amounts allotted to the taxing districts therein,  
20 and shall, on or before November 10 of the year in which the taxes  
21 are payable, draw and transmit his warrant upon the State Trea-  
22 sury, in favor of the several county treasurers, for the amounts  
23 allotted to their several counties. Each county treasurer shall forth-  
24 with, and not later than December 15, pay to the collector or other  
25 proper officer of each taxing district the amount allotted thereto,  
26 deducting, however, the amount due for county taxes from the tax-  
27 ing district. The amount thus paid to the county and taxing  
28 district shall be at the disposal of the proper authorities for public  
29 purposes.

1 12. This act shall take effect immediately and shall be applicable  
2 to taxes due and payable in the year 1970 and in each year there-  
3 after.

FISCAL NOTE TO  
**ASSEMBLY, No. 418**

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**STATE OF NEW JERSEY**

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DATED: JANUARY 23, 1970

Assembly Bill No. 418, 1970, relates to the increase in the rate of the financial business tax law, N. J. S. A. 54:10B-1, et seq., from  $\frac{3}{4}$  of 1% upon net worth to  $1\frac{1}{2}$ % upon net worth.

The Division of Taxation estimates that enactment of this legislation would increase the revenues of the State by \$1.7 million in fiscal 1969-70, \$1.8 million in 1970-71 and \$1.9 million in 1971-72.

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In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.