

# 17:11C-21

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2001                      **CHAPTER:** 294  
**NJSA:** 17:11C-2                (Allows consumer lenders to make loans up to \$50,000)  
**BILL NO:** S2355                (Substituted for A3067)

**SPONSOR(S):** Singer and Inverso

**DATE INTRODUCED:** May 14, 2001

**COMMITTEE:**                      **ASSEMBLY:** ----  
**SENATE:** Commerce

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**                **ASSEMBLY:** December 10, 2001  
**SENATE:** June 21, 2001

**DATE OF APPROVAL:** December 31, 2001

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (Original version of bill enacted)

#### S2355

**SPONSORS STATEMENT:** (Begins on page 9 of original bill)                      Yes

**COMMITTEE STATEMENT:**                      **ASSEMBLY:** No

**SENATE:** Yes

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

#### A3067

**SPONSORS STATEMENT:** (Begins on page 9 of original bill)                      Yes

**COMMITTEE STATEMENT:**                      **ASSEMBLY:** Yes

	<b>SENATE:</b>	No
<b>FLOOR AMENDMENT STATEMENTS:</b>		No
<b>LEGISLATIVE FISCAL ESTIMATE:</b>		No
<b>FINAL VERSION (1<sup>st</sup> reprint):</b>		Yes
<b>VETO MESSAGE:</b>		No
<b>GOVERNOR'S PRESS RELEASE ON SIGNING:</b>		No

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# SENATE, No. 2355

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MAY 14, 2001

**Sponsored by:**

**Senator ROBERT W. SINGER**

**District 30 (Burlington, Monmouth and Ocean)**

**Senator PETER A. INVERSO**

**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

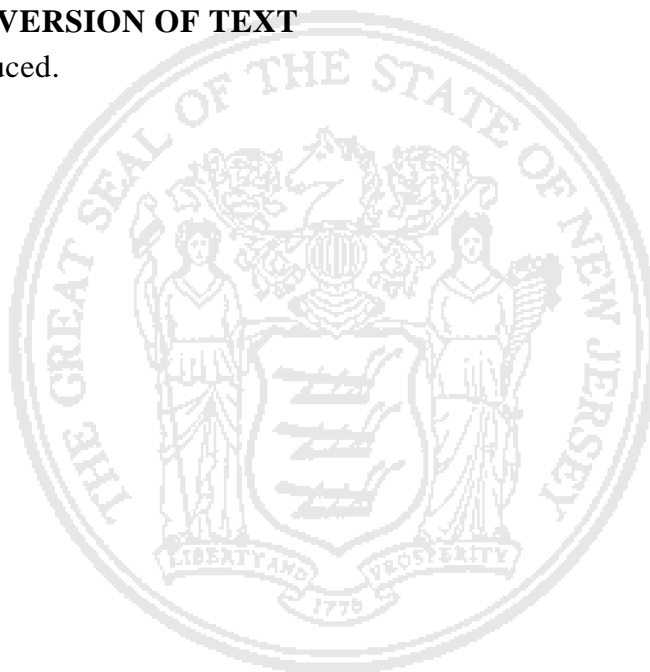
**Assemblymen Bateman and Cohen**

**SYNOPSIS**

Allows consumer lenders under the "New Jersey Licensed Lenders Act" to make consumer loans up to \$50,000.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 12/11/2001)

S2355 SINGER, INVERSO

2

1 AN ACT concerning certain consumer loans and amending P.L.1996,  
2 c.157.

3

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

6

7 1. Section 2 of P.L.1996, c.157 (C.17:11C-2) is amended to read  
8 as follows:

9 2. As used in this act:

10 "Billing cycle" means the time interval between periodic billing  
11 dates. A billing cycle shall be considered monthly if the closing date  
12 of the cycle is the same date each month or does not vary by more than  
13 four days from such date.

14 "Borrower" means any person applying for a loan from a lender  
15 licensed under this act, whether or not the loan is granted, and any  
16 person who has actually obtained such a loan.

17 "Closed-end loan" with respect to a secondary mortgage loan  
18 means a mortgage loan pursuant to which the licensee advances a  
19 specified amount of money and the borrower agrees to repay the  
20 principal and interest in substantially equal installments over a stated  
21 period of time, except that: (1) the amount of the final installment  
22 payment may be substantially greater than the previous installments if  
23 the term of the loan is at least 36 months, or under 36 months if the  
24 remaining term of the first mortgage loan is under 36 months; or (2)  
25 the amount of the installment payments may vary as a result of the  
26 change in the interest rate as permitted by this act. "Closed-end loan"  
27 with respect to a consumer loan means a loan which meets the  
28 requirements of section 35 of P.L.1996, c.157 (C.17:11C-35) and  
29 pursuant to which the licensee advances a specified amount of money  
30 and the borrower agrees to repay the principal and interest in  
31 substantially equal installments over a stated period of time.

32 "Consumer loan business" means the business of making loans of  
33 money, credit, goods or things in action, which are to be used  
34 primarily for personal, family or household purposes, in the amount or  
35 value of ~~[\$15,000]~~ \$50,000 or less and charging, contracting for, or  
36 receiving a greater rate of interest, discount or consideration therefor  
37 than the lender would be permitted by law to charge if he were not a  
38 licensee hereunder, except as authorized by this act and without first  
39 obtaining a license from the commissioner. Any person directly or  
40 indirectly engaging in the business of soliciting or taking applications  
41 for such loans of ~~[\$15,000]~~ \$50,000 or less, or in the business of  
42 negotiating or arranging or aiding the borrower or lender in procuring  
43 or making such loans of ~~[\$15,000]~~ \$50,000 or less, or in the business

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

**Matter underlined thus is new matter.**

**S2355 SINGER, INVERSO**

3

1 of buying, discounting or indorsing notes, or of furnishing, or  
2 procuring guarantee or security for compensation in amounts of  
3 ~~[\$15,000]~~ \$50,000 or less, shall be deemed to be engaging in the  
4 consumer loan business.

5 "Commissioner" means the Commissioner of Banking and Insurance.

6 "Consumer lender" means a person licensed, or a person who should  
7 be licensed, under this act to engage in the consumer loan business.

8 "Consumer loan" means a loan of ~~[\$15,000]~~ \$50,000 or less made by  
9 a consumer lender, payable in one or more installments, pursuant to  
10 the terms of this act, and not a first mortgage loan or a secondary  
11 mortgage loan.

12 "Controlling interest" means ownership, control or interest of 25%  
13 or more of the licensee or applicant.

14 "Correspondent mortgage banker" means a mortgage banker who:  
15 (1) in the regular course of business, does not hold mortgage loans in  
16 its portfolio, or service mortgage loans, for more than 90 days; and (2)  
17 has shown to the department's satisfaction an ability to fund loans  
18 through warehouse agreements, table funding agreements or  
19 otherwise.

20 "Department" means the Department of Banking and Insurance.

21 "Depository institution" means a state or federally chartered bank,  
22 savings bank, savings and loan association, building and loan  
23 association or credit union, irrespective of whether the entity accepts  
24 deposits.

25 "First mortgage loan" means any loan secured by a first mortgage on  
26 real property on a one to six family dwelling, a portion of which may  
27 be used for nonresidential purposes.

28 "Licensee" means a person who is licensed under this act, or who  
29 should be so licensed.

30 "Mortgage banker" means any person, not exempt under section 4  
31 of this act and licensed pursuant to the provisions of this act, and any  
32 person who should be licensed pursuant to the provisions of this act,  
33 who for compensation or gain, or in the expectation of compensation  
34 or gain, either directly or indirectly originates, acquires or negotiates  
35 first mortgage loans in the primary market.

36 "Mortgage broker" means any person, not exempt under section 4 of  
37 this act and licensed pursuant to the provisions of this act, and any  
38 person who should be licensed pursuant to the provisions of this act,  
39 who for compensation or gain, or in the expectation of compensation  
40 or gain, either directly or indirectly negotiates, places or sells for  
41 others, or offers to negotiate, place or sell for others, first mortgage  
42 loans in the primary market.

43 "Open-end loan" means a secondary mortgage loan made by a  
44 secondary lender or a consumer loan made by a consumer lender  
45 pursuant to a written agreement with the borrower whereby:

46 (1) The lender may permit the borrower to obtain advances of

1 money from the secondary lender from time to time or the secondary  
2 lender may advance money on behalf of the borrower from time to  
3 time as directed by the borrower;

4 (2) The amount of each advance and permitted interest and charges  
5 are debited to the borrower's account and payments and other credits  
6 are credited to the same account;

7 (3) Interest is computed on the unpaid principal balance or balances  
8 of the account from time to time; and

9 (4) The borrower has the privilege of paying the account in full at  
10 any time or, if the account is not in default, in monthly installments of  
11 fixed or determinable amounts as provided in the agreement.

12 "Person" means an individual, association, joint venture, partnership,  
13 limited partnership association, limited liability company, corporation,  
14 trust, or any other group of individuals however organized.

15 "Primary market" means the market wherein first mortgage loans are  
16 originated between a lender and a borrower, whether or not through  
17 a mortgage broker or other conduit, and shall not include the sale or  
18 acquisition of a mortgage loan after a mortgage loan is closed.

19 "Sales finance company" shall have the meaning ascribed to that term  
20 in section 1 of P.L.1960, c.40 (C.17:16C-1).

21 "Secondary lender" means a person licensed, or a person who should  
22 be licensed, under this act to engage in the secondary mortgage loan  
23 business.

24 "Secondary mortgage loan" means a loan made to an individual,  
25 association, joint venture, partnership, limited partnership association,  
26 limited liability company, trust, or any other group of individuals,  
27 however organized, except a corporation, which is secured in whole  
28 or in part by a lien upon any interest in real property, including but not  
29 limited to shares of stock in a cooperative corporation, created by a  
30 security agreement, including a mortgage, indenture, or any other  
31 similar instrument or document, which real property is subject to one  
32 or more prior mortgage liens and on which there is erected a structure  
33 containing one, two, three, four, five or six dwelling units, a portion  
34 of which structure may be used for nonresidential purposes, except  
35 that the following loans shall not be subject to the provisions of this  
36 act: (1) a loan which is to be repaid in 90 days or less; (2) a loan which  
37 is taken as security for a home repair contract executed in accordance  
38 with the provisions of the "Home Repair Financing Act," P.L.1960,  
39 c.41 (C.17:16C-62 et seq.); or (3) a loan which is the result of the  
40 private sale of a dwelling, if title to the dwelling is in the name of the  
41 seller and the seller has resided in that dwelling for at least one year,  
42 if the buyer is purchasing that dwelling for his own residence and, if  
43 the buyer, as part of the purchase price, executes a secondary  
44 mortgage in favor of the seller.

45 "Secondary mortgage loan business" means advertising, causing to  
46 be advertised, soliciting, negotiating, offering to make or making a

1 secondary mortgage loan in this State, whether directly or by any  
2 person acting for his benefit.

3 "Solicitor" means any person not licensed as a mortgage banker,  
4 correspondent mortgage banker or mortgage broker who is employed  
5 as a solicitor by one, and not more than one, licensee, who is subject  
6 to the direct supervision and control of that licensee, and who solicits,  
7 provides or accepts first mortgage loan applications, or assists  
8 borrowers in completing first mortgage loan applications, and whose  
9 compensation is in any way based on the dollar amount or volume of  
10 first mortgage loan applications, first mortgage loan closings or other  
11 first mortgage loan activity.

12 (cf: P.L.1999, c.250, s.1)

13

14 2. Section 32 of P.L.1996, c.157 (C.17:11C-32) is amended to read  
15 as follows:

16 32. a. Notwithstanding the provisions of R.S.31:1-1 or any other  
17 law to the contrary, every licensee authorized to engage in the  
18 consumer loan business may loan any sum of money not exceeding  
19 ~~[\$15,000]~~ \$50,000, repayable in an installment or installments, and  
20 may charge, contract for and receive thereon interest at an annual  
21 percentage rate or rates agreed to by the licensee and the borrower.

22 b. A closed-end consumer loan contract may provide for a variation  
23 in the interest rate in which adjustments to the interest rate shall  
24 correspond directly to the movement of an interest rate index which is  
25 readily available to and verifiable by the borrower and is beyond the  
26 control of the lender. No increase during the entire loan term shall  
27 result in an interest rate of more than 6% per annum over the rate  
28 applicable initially, nor shall the rate be raised more than 3% per  
29 annum during any 12-month period. The lender shall not be obligated  
30 to decrease the interest rate more than 6% over the term of the loan,  
31 nor more than 3% per annum during any 12-month period. If a rate  
32 increase is applied to the loan, the lender shall also be obligated to  
33 adopt and implement uniform standards for decreasing the rate. If the  
34 contract provides for the possibility of an increase or decrease or both  
35 in the rate, that fact shall be clearly described in plain language, in at  
36 least 8-point bold face type on the face of the contract. No rate  
37 increase shall take effect unless (1) at least 90 days prior to the  
38 effective date of the first such increase, or 30 days prior to the  
39 effective date of any subsequent increase, a written notice has been  
40 mailed or delivered to the borrower that clearly and conspicuously  
41 describes such increase, and (2) unless at least 365 days have elapsed  
42 without any increase in the rate. Where the loan contract so provides  
43 for an increase or decrease in the rate of interest, the installments may  
44 vary in amount, notwithstanding any other law to the contrary, except  
45 that if the rate increases, the borrower may request, and the lender  
46 shall provide for, either an increase in the amount of the installment

1 payment or an extension of the term of the loan, or some combination  
2 of an increase in the amount of the installment payment and extension  
3 of the term.

4 c. An open-end loan agreement may provide that the lender may at  
5 any time, or from time to time, change the terms of the agreement,  
6 including the terms governing the periodic interest rate, calculation of  
7 interest or the method of computing the required amount of periodic  
8 installment payments, provided however, that:

9 (1) the periodic interest rate shall not be changed more than once in  
10 each billing cycle;

11 (2) any change in the periodic interest rate shall correspond to the  
12 movement of a market interest rate index specified in the agreement  
13 which is readily verifiable by the borrower and beyond the control of  
14 the lender;

15 (3) a change in any term of the agreement, including the periodic  
16 interest rate, may be permitted to apply to any then-outstanding unpaid  
17 indebtedness in the borrower's account, including any indebtedness  
18 which shall have arisen from advances obtained prior to the effective  
19 date of the change, so long as that fact is clearly and conspicuously  
20 disclosed in the agreement;

21 (4) if the agreement provides for the possibility of a change in any  
22 term of the agreement, including the rate, that fact shall be clearly  
23 described in plain language, in at least 8-point bold face type on the  
24 face of the written notice; and

25 (5) no change in any term of the agreement or of the index specified  
26 in the agreement shall be effective unless: (a) at least 30 days prior to  
27 the effective date of the change, a written notice has been mailed or  
28 delivered to the borrower that clearly and conspicuously describes the  
29 change and the indebtedness to which it applies, and states that the  
30 incurrence by the borrower or another person authorized by him of any  
31 further indebtedness under the law to which the agreement relates on  
32 or after the effective date of the change specified in the notice shall  
33 constitute acceptance of the change; and (b) either the borrower  
34 agrees in writing to the change or the borrower or another person  
35 authorized by him incurs further indebtedness on or after the effective  
36 date of the change stated in that notice, which indebtedness may  
37 include outstanding balances. Any borrower who fails to use the  
38 borrower's account or so to indicate agreement to the change shall be  
39 permitted to pay the outstanding unpaid indebtedness in the borrower's  
40 account in accordance with the terms governing the open-end  
41 consumer loan agreement without giving effect to the change.

42 d. The consumer lender shall notify each affected borrower in a  
43 consumer loan agreement of any change in the manner set forth in the  
44 closed-end and open-end agreement governing the plan and in  
45 compliance with the requirements of the federal "Truth in Lending  
46 Act" (15 U.S.C.s.1601 et seq.) and regulations promulgated



S2355 SINGER, INVERSO

1 thereunder, as in effect from time to time, if applicable.

2 e. The interest and periodic payments for consumer loans at these  
3 rates shall be computed from the standard tables based on the actuarial  
4 or annuity method which conforms to the so-called "United States  
5 Rule of Partial Payments," which provides that interest shall be  
6 calculated whenever a payment is made and the payment shall be first  
7 applied to the payment of interest and if it exceeds the interest due, the  
8 balance is to be applied to diminish principal. If the payment is  
9 insufficient to pay the entire amount of interest, the balance of interest  
10 due shall not be added to principal, so as to produce interest thereon.

11 f. No interest on a consumer loan shall be paid, deducted, or  
12 received in advance. Interest shall not be compounded and shall be  
13 computed only on unpaid principal balances. For the purpose of  
14 computing interest, all installment payments shall be applied on the  
15 date of receipt, and interest shall be charged for the actual number of  
16 days elapsed at the daily rate of 1/365 of the yearly rate.

17 g. No consumer lender shall induce or permit any person nor any  
18 husband and wife, jointly or severally, to become obligated, directly or  
19 contingently or both, under more than one contract of a consumer loan  
20 at the same time for the purpose of obtaining a higher rate of interest  
21 than would otherwise be permitted by this section. This prohibition  
22 shall not apply to any loan made pursuant to any other law of this  
23 State.

24 (cf: P.L.1996, c.157, s.32)

25

26 3. Section 37 of P.L.1996, c.157 (C.17:11C-37) is amended to read  
27 as follows:

28 37. No licensee authorized to engage in the consumer loan business  
29 shall directly or indirectly charge, contract for, or receive any interest,  
30 discount, or consideration greater than he would be permitted by law  
31 to charge if he were not a licensee under this act upon the loan, use,  
32 or sale of credit, of the amount or value of more than ~~[\$15,000]~~  
33 \$50,000. The foregoing prohibition shall also apply to any licensee  
34 who permits any person, as borrower or as indorser, guarantor, or  
35 surety for any borrower, or otherwise, to owe directly or contingently  
36 or both under one or more loan contracts to the licensee at any time  
37 the sum of more than ~~[\$15,000]~~ \$50,000 for principal.

38 (cf: P.L.1996, c.157, s.37)

39

40 4. Section 38 of P.L.1996, c.157 (C.17:11C-38) is amended to read  
41 as follows:

42 38. The payment of ~~[\$15,000]~~ \$50,000 or less in money, credit,  
43 goods or things in action, as consideration for any sale, assignment or  
44 order for the payment of wages, salary, commissions or other  
45 compensation for services, whether earned or to be earned, shall, for  
46 the purposes of this act, be deemed a loan secured by the assignment.

S2355 SINGER, INVERSO

1 The transaction shall be governed by and subject to the provisions of  
2 this act and any such sale, assignment or order hereafter made shall,  
3 for the purposes of this act, be void and of no effect.

4 (cf: P.L.1996, c.157, s.38)

5

6 5. Section 40 of P.L.1996, c.157 (C.17:11C-40) is amended to read  
7 as follows:

8 40. The payment of~~[\$15,000]~~ \$50,000 or less in money, credit,  
9 goods or things in action as consideration for any sale of personal  
10 property which is made on condition that the property be sold back  
11 at a greater price shall, for the purposes of this act, be deemed to be  
12 a loan secured by the property and the amount by which the  
13 repurchase price exceeds the original payment actually paid shall be  
14 deemed interest or charges upon the loan from the date the original  
15 payment is made until the date the repurchase price is paid. The  
16 transaction shall be governed by and be subject to the provisions of  
17 this act as if it were a consumer loan.

18 (cf: P.L.1996, c.157, s.40)

19

20 6. Section 41 of P.L.1996, c.157 (C.17:11C-41) is amended to read  
21 as follows:

22 41. a. No consumer lender shall make any loan upon security of any  
23 assignment of or order for the payment of any salary, wages,  
24 commissions or other compensation for services earned, or to be  
25 earned, nor shall any such assignment or order be taken by a licensee  
26 at any time in connection with any consumer loan, or for the  
27 enforcement or repayment thereof, and any such assignment or order  
28 hereafter so taken or given to secure any loan made by any licensee  
29 under this act shall be void and of no effect.

30 b. No consumer lender shall take a lien upon real estate as security  
31 for any consumer loan, except a lien created by law upon the recording  
32 of a judgment.

33 c. No licensee shall conduct the consumer loan business within any  
34 office, room, or place of business in which any other business is  
35 solicited or engaged in, or in association or conjunction therewith,  
36 except as may be authorized in writing by the commissioner.

37 d. Every multiple installment consumer loan contract, other than an  
38 open-end consumer loan contract or a variable rate closed-end  
39 consumer loan contract under subsection b. of section 32 of this act,  
40 shall provide for repayment of principal and interest combined in  
41 installments which shall be payable at approximately equal periodic  
42 intervals of time and which shall be so arranged that no installment is  
43 substantially greater in amount than any preceding installment, except  
44 that the repayment schedule may reduce or omit installments when  
45 necessary because of the seasonal nature of the borrower's income.

46 e. No person, except as authorized by this act, shall directly or

1 indirectly charge, contract for, or receive any interest, discount, or  
2 consideration greater than the lender would be permitted by law to  
3 charge if he were not a licensee hereunder upon the loan, use, or  
4 forbearance of money, goods, or things in action, or upon the loan,  
5 use, or sale of credit of the amount of ~~[\$15,000]~~ \$50,000 or less. This  
6 prohibition shall apply to any person who, by any device, subterfuge,  
7 or pretense, shall charge, contract for, or receive greater interest,  
8 consideration, or charges than is authorized by this act for the loan,  
9 use, or forbearance of money, goods, or things in action or for the  
10 loan, use, or sale of credit.

11 f. No consumer loans of the amount or value of ~~[\$15,000]~~ \$50,000  
12 or less for which a greater rate of interest, consideration, or charge  
13 than is permitted by this act has been charged, contracted for, or  
14 received, whenever made, shall be enforced in this State and any  
15 person, partnership, association or corporation in any way  
16 participating therein in this State shall be subject to the provisions of  
17 this act. The foregoing shall not apply to loans legally made in any  
18 state which then has in effect a regulatory small loan law similar in  
19 principle to this act, but an action to enforce any loan made in any  
20 state to a person then residing in this State may be maintained in this  
21 State only if the amount of interest, discount, consideration or other  
22 charge for that loan, demanded to be paid in the action, does not  
23 exceed that permitted to a licensee authorized to engage in the  
24 consumer loan business by this act for a loan of the same amount  
25 repayable in the same manner.

26 (cf: P.L.1996, c.157, s.41)

27

28 7. This act shall take effect immediately.

29

30

31

#### STATEMENT

32

33 This bill, provides that a consumer lender licensed pursuant to the  
34 "New Jersey Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et  
35 seq.) who engages in the consumer loan business may make consumer  
36 loans up to \$50,000, an increase from the current maximum loan  
37 amount of \$15,000. The bill makes it clear that the consumer loan  
38 business means the business of making loans of money, credit, goods  
39 or things in action which are to be used primarily for personal, family  
40 or household purposes, and that these loans may be repayable in one  
41 or more installments.

SENATE COMMERCE COMMITTEE

STATEMENT TO

**SENATE, No. 2355**

**STATE OF NEW JERSEY**

DATED: JUNE 11, 2001

The Senate Commerce Committee reports favorably Senate Bill No. 2355.

This bill provides that consumer loans in the amount of \$50,000 or less are subject to regulation pursuant to the "New Jersey Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.), an increase from the current ceiling amount of \$15,000. The bill makes it clear that the consumer loan business means the business of making loans of money, credit, goods or things in action which are to be used primarily for personal, family or household purposes, and that these loans may be repayable in one or more installments.

# ASSEMBLY, No. 3067

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED JANUARY 9, 2001

**Sponsored by:**

**Assemblyman CHRISTOPHER "KIP" BATEMAN**

**District 16 (Morris and Somerset)**

**Assemblyman NEIL M. COHEN**

**District 20 (Union)**

**SYNOPSIS**

Allows consumer lenders under the "New Jersey Licensed Lenders Act" to make consumer loans up to \$50,000.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/2/2001)**

A3067 BATEMAN, COHEN

2

1 AN ACT concerning certain consumer loans and amending P.L.1996,  
2 c.157.

3

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

6

7 1. Section 2 of P.L.1996, c.157 (C.17:11C-2) is amended to read  
8 as follows:

9 2. As used in this act:

10 "Billing cycle" means the time interval between periodic billing  
11 dates. A billing cycle shall be considered monthly if the closing date  
12 of the cycle is the same date each month or does not vary by more than  
13 four days from such date.

14 "Borrower" means any person applying for a loan from a lender  
15 licensed under this act, whether or not the loan is granted, and any  
16 person who has actually obtained such a loan.

17 "Closed-end loan" with respect to a secondary mortgage loan  
18 means a mortgage loan pursuant to which the licensee advances a  
19 specified amount of money and the borrower agrees to repay the  
20 principal and interest in substantially equal installments over a stated  
21 period of time, except that: (1) the amount of the final installment  
22 payment may be substantially greater than the previous installments if  
23 the term of the loan is at least 36 months, or under 36 months if the  
24 remaining term of the first mortgage loan is under 36 months; or (2)  
25 the amount of the installment payments may vary as a result of the  
26 change in the interest rate as permitted by this act. "Closed-end loan"  
27 with respect to a consumer loan means a loan which meets the  
28 requirements of section 35 of P.L.1996, c.157 (C.17:11C-35) and  
29 pursuant to which the licensee advances a specified amount of money  
30 and the borrower agrees to repay the principal and interest in  
31 substantially equal installments over a stated period of time.

32 "Consumer loan business" means the business of making loans of  
33 money, credit, goods or things in action in the amount or value of  
34 **[\$15,000]** \$50,000 or less and charging, contracting for, or receiving  
35 a greater rate of interest, discount or consideration therefor than the  
36 lender would be permitted by law to charge if he were not a licensee  
37 hereunder, except as authorized by this act and without first obtaining  
38 a license from the commissioner. Any person directly or indirectly  
39 engaging in the business of soliciting or taking applications for such  
40 loans of **[\$15,000]** \$50,000 or less, or in the business of negotiating  
41 or arranging or aiding the borrower or lender in procuring or making  
42 such loans of **[\$15,000]** \$50,000 or less, or in the business of buying,  
43 discounting or indorsing notes, or of furnishing, or procuring

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

**Matter underlined thus is new matter.**

1 guarantee or security for compensation in amounts of ~~[\$15,000]~~  
2 \$50,000 or less, shall be deemed to be engaging in the consumer loan  
3 business.

4 "Commissioner" means the Commissioner of Banking and  
5 Insurance.

6 "Consumer lender" means a person licensed, or a person who  
7 should be licensed, under this act to engage in the consumer loan  
8 business.

9 "Consumer loan" means a loan of ~~[\$15,000]~~ \$50,000 or less made  
10 by a consumer lender pursuant to the terms of this act, and not a first  
11 mortgage loan or a secondary mortgage loan.

12 "Controlling interest" means ownership, control or interest of 25%  
13 or more of the licensee or applicant.

14 "Correspondent mortgage banker" means a mortgage banker who:  
15 (1) in the regular course of business, does not hold mortgage loans in  
16 its portfolio, or service mortgage loans, for more than 90 days; and (2)  
17 has shown to the department's satisfaction an ability to fund loans  
18 through warehouse agreements, table funding agreements or  
19 otherwise.

20 "Department" means the Department of Banking and Insurance.

21 "Depository institution" means a state or federally chartered bank,  
22 savings bank, savings and loan association, building and loan  
23 association or credit union, irrespective of whether the entity accepts  
24 deposits.

25 "First mortgage loan" means any loan secured by a first mortgage  
26 on real property on a one to six family dwelling, a portion of which  
27 may be used for nonresidential purposes.

28 "Licensee" means a person who is licensed under this act, or who  
29 should be so licensed.

30 "Mortgage banker" means any person, not exempt under section 4  
31 of this act and licensed pursuant to the provisions of this act, and any  
32 person who should be licensed pursuant to the provisions of this act,  
33 who for compensation or gain, or in the expectation of compensation  
34 or gain, either directly or indirectly originates, acquires or negotiates  
35 first mortgage loans in the primary market.

36 "Mortgage broker" means any person, not exempt under section 4  
37 of this act and licensed pursuant to the provisions of this act, and any  
38 person who should be licensed pursuant to the provisions of this act,  
39 who for compensation or gain, or in the expectation of compensation  
40 or gain, either directly or indirectly negotiates, places or sells for  
41 others, or offers to negotiate, place or sell for others, first mortgage  
42 loans in the primary market.

43 "Open-end loan" means a secondary mortgage loan made by a  
44 secondary lender or a consumer loan made by a consumer lender  
45 pursuant to a written agreement with the borrower whereby:

46 (1) The lender may permit the borrower to obtain advances of

1 money from the secondary lender from time to time or the secondary  
2 lender may advance money on behalf of the borrower from time to  
3 time as directed by the borrower;

4 (2) The amount of each advance and permitted interest and charges  
5 are debited to the borrower's account and payments and other credits  
6 are credited to the same account;

7 (3) Interest is computed on the unpaid principal balance or  
8 balances of the account from time to time; and

9 (4) The borrower has the privilege of paying the account in full at  
10 any time or, if the account is not in default, in monthly installments of  
11 fixed or determinable amounts as provided in the agreement.

12 "Person" means an individual, association, joint venture,  
13 partnership, limited partnership association, limited liability company,  
14 corporation, trust, or any other group of individuals however  
15 organized.

16 "Primary market" means the market wherein first mortgage loans  
17 are originated between a lender and a borrower, whether or not  
18 through a mortgage broker or other conduit, and shall not include the  
19 sale or acquisition of a mortgage loan after a mortgage loan is closed.

20 "Sales finance company" shall have the meaning ascribed to that  
21 term in section 1 of P.L.1960, c.40 (C.17:16C-1).

22 "Secondary lender" means a person licensed, or a person who  
23 should be licensed, under this act to engage in the secondary mortgage  
24 loan business.

25 "Secondary mortgage loan" means a loan made to an individual,  
26 association, joint venture, partnership, limited partnership association,  
27 limited liability company, trust, or any other group of individuals,  
28 however organized, except a corporation, which is secured in whole  
29 or in part by a lien upon any interest in real property, including but not  
30 limited to shares of stock in a cooperative corporation, created by a  
31 security agreement, including a mortgage, indenture, or any other  
32 similar instrument or document, which real property is subject to one  
33 or more prior mortgage liens and on which there is erected a structure  
34 containing one, two, three, four, five or six dwelling units, a portion  
35 of which structure may be used for nonresidential purposes, except  
36 that the following loans shall not be subject to the provisions of this  
37 act: (1) a loan which is to be repaid in 90 days or less; (2) a loan which  
38 is taken as security for a home repair contract executed in accordance  
39 with the provisions of the "Home Repair Financing Act," P.L.1960,  
40 c.41 (C.17:16C-62 et seq.); or (3) a loan which is the result of the  
41 private sale of a dwelling, if title to the dwelling is in the name of the  
42 seller and the seller has resided in that dwelling for at least one year,  
43 if the buyer is purchasing that dwelling for his own residence and, if  
44 the buyer, as part of the purchase price, executes a secondary  
45 mortgage in favor of the seller.

46 "Secondary mortgage loan business" means advertising, causing to



1 be advertised, soliciting, negotiating, offering to make or making a  
2 secondary mortgage loan in this State, whether directly or by any  
3 person acting for his benefit.

4 "Solicitor" means any person not licensed as a mortgage banker,  
5 correspondent mortgage banker or mortgage broker who is employed  
6 as a solicitor by one, and not more than one, licensee, who is subject  
7 to the direct supervision and control of that licensee, and who solicits,  
8 provides or accepts first mortgage loan applications, or assists  
9 borrowers in completing first mortgage loan applications, and whose  
10 compensation is in any way based on the dollar amount or volume of  
11 first mortgage loan applications, first mortgage loan closings or other  
12 first mortgage loan activity.

13 (cf: P.L.1999, c.250, s.1)

14

15 2. Section 32 of P.L.1996, c.157 (C.17:11C-32) is amended to  
16 read as follows:

17 32. a. Notwithstanding the provisions of R.S.31:1-1 or any other  
18 law to the contrary, every licensee authorized to engage in the  
19 consumer loan business may loan any sum of money not exceeding  
20 ~~[\$15,000]~~ \$50,000, repayable in installments, and may charge,  
21 contract for and receive thereon interest at an annual percentage rate  
22 or rates agreed to by the licensee and the borrower.

23 b. A closed-end consumer loan contract may provide for a  
24 variation in the interest rate in which adjustments to the interest rate  
25 shall correspond directly to the movement of an interest rate index  
26 which is readily available to and verifiable by the borrower and is  
27 beyond the control of the lender. No increase during the entire loan  
28 term shall result in an interest rate of more than 6% per annum over  
29 the rate applicable initially, nor shall the rate be raised more than 3%  
30 per annum during any 12-month period. The lender shall not be  
31 obligated to decrease the interest rate more than 6% over the term of  
32 the loan, nor more than 3% per annum during any 12-month period.  
33 If a rate increase is applied to the loan, the lender shall also be  
34 obligated to adopt and implement uniform standards for decreasing the  
35 rate. If the contract provides for the possibility of an increase or  
36 decrease or both in the rate, that fact shall be clearly described in plain  
37 language, in at least 8-point bold face type on the face of the contract.  
38 No rate increase shall take effect unless (1) at least 90 days prior to  
39 the effective date of the first such increase, or 30 days prior to the  
40 effective date of any subsequent increase, a written notice has been  
41 mailed or delivered to the borrower that clearly and conspicuously  
42 describes such increase, and (2) unless at least 365 days have elapsed  
43 without any increase in the rate. Where the loan contract so provides  
44 for an increase or decrease in the rate of interest, the installments may  
45 vary in amount, notwithstanding any other law to the contrary, except  
46 that if the rate increases, the borrower may request, and the lender

1 shall provide for, either an increase in the amount of the installment  
2 payment or an extension of the term of the loan, or some combination  
3 of an increase in the amount of the installment payment and extension  
4 of the term.

5 c. An open-end loan agreement may provide that the lender may at  
6 any time, or from time to time, change the terms of the agreement,  
7 including the terms governing the periodic interest rate, calculation of  
8 interest or the method of computing the required amount of periodic  
9 installment payments, provided however, that:

10 (1) the periodic interest rate shall not be changed more than once  
11 in each billing cycle;

12 (2) any change in the periodic interest rate shall correspond to the  
13 movement of a market interest rate index specified in the agreement  
14 which is readily verifiable by the borrower and beyond the control of  
15 the lender;

16 (3) a change in any term of the agreement, including the periodic  
17 interest rate, may be permitted to apply to any then-outstanding unpaid  
18 indebtedness in the borrower's account, including any indebtedness  
19 which shall have arisen from advances obtained prior to the effective  
20 date of the change, so long as that fact is clearly and conspicuously  
21 disclosed in the agreement;

22 (4) if the agreement provides for the possibility of a change in any  
23 term of the agreement, including the rate, that fact shall be clearly  
24 described in plain language, in at least 8-point bold face type on the  
25 face of the written notice; and

26 (5) no change in any term of the agreement or of the index  
27 specified in the agreement shall be effective unless: (a) at least 30 days  
28 prior to the effective date of the change, a written notice has been  
29 mailed or delivered to the borrower that clearly and conspicuously  
30 describes the change and the indebtedness to which it applies, and  
31 states that the incurrence by the borrower or another person  
32 authorized by him of any further indebtedness under the law to which  
33 the agreement relates on or after the effective date of the change  
34 specified in the notice shall constitute acceptance of the change; and  
35 (b) either the borrower agrees in writing to the change or the borrower  
36 or another person authorized by him incurs further indebtedness on or  
37 after the effective date of the change stated in that notice, which  
38 indebtedness may include outstanding balances. Any borrower who  
39 fails to use the borrower's account or so to indicate agreement to the  
40 change shall be permitted to pay the outstanding unpaid indebtedness  
41 in the borrower's account in accordance with the terms governing the  
42 open-end consumer loan agreement without giving effect to the  
43 change.

44 d. The consumer lender shall notify each affected borrower in a  
45 consumer loan agreement of any change in the manner set forth in the  
46 closed-end and open-end agreement governing the plan and in

1 compliance with the requirements of the federal "Truth in Lending  
2 Act" (15 U.S.C.s.1601 et seq.) and regulations promulgated  
3 thereunder, as in effect from time to time, if applicable.

4 e. The interest and periodic payments for consumer loans at these  
5 rates shall be computed from the standard tables based on the actuarial  
6 or annuity method which conforms to the so-called "United States  
7 Rule of Partial Payments," which provides that interest shall be  
8 calculated whenever a payment is made and the payment shall be first  
9 applied to the payment of interest and if it exceeds the interest due, the  
10 balance is to be applied to diminish principal. If the payment is  
11 insufficient to pay the entire amount of interest, the balance of interest  
12 due shall not be added to principal, so as to produce interest thereon.

13 f. No interest on a consumer loan shall be paid, deducted, or  
14 received in advance. Interest shall not be compounded and shall be  
15 computed only on unpaid principal balances. For the purpose of  
16 computing interest, all installment payments shall be applied on the  
17 date of receipt, and interest shall be charged for the actual number of  
18 days elapsed at the daily rate of 1/365 of the yearly rate.

19 g. No consumer lender shall induce or permit any person nor any  
20 husband and wife, jointly or severally, to become obligated, directly or  
21 contingently or both, under more than one contract of a consumer loan  
22 at the same time for the purpose of obtaining a higher rate of interest  
23 than would otherwise be permitted by this section. This prohibition  
24 shall not apply to any loan made pursuant to any other law of this  
25 State.

26 (cf: P.L.1996, c.157, s.32)

27  
28 3. Section 37 of P.L.1996, c.157 (C.17:11C-37) is amended to  
29 read as follows:

30 37. No licensee authorized to engage in the consumer loan business  
31 shall directly or indirectly charge, contract for, or receive any interest,  
32 discount, or consideration greater than he would be permitted by law  
33 to charge if he were not a licensee under this act upon the loan, use,  
34 or sale of credit, of the amount or value of more than **[\$15,000]**  
35 \$50,000. The foregoing prohibition shall also apply to any licensee  
36 who permits any person, as borrower or as indorser, guarantor, or  
37 surety for any borrower, or otherwise, to owe directly or contingently  
38 or both under one or more loan contracts to the licensee at any time  
39 the sum of more than **[\$15,000]** \$50,000 for principal.

40 (cf: P.L.1996, c.157, s.37)

41  
42 4. Section 38 of P.L.1996, c.157 (C.17:11C-38) is amended to  
43 read as follows:

44 38. The payment of **[\$15,000]** \$50,000 or less in money, credit,  
45 goods or things in action, as consideration for any sale, assignment or  
46 order for the payment of wages, salary, commissions or other

1 compensation for services, whether earned or to be earned, shall, for  
2 the purposes of this act, be deemed a loan secured by the assignment.  
3 The transaction shall be governed by and subject to the provisions of  
4 this act and any such sale, assignment or order hereafter made shall,  
5 for the purposes of this act, be void and of no effect.

6 (cf: P.L.1996, c.157, s.38)

7

8 5. Section 40 of P.L.1996, c.157 (C.17:11C-40) is amended to  
9 read as follows:

10 40. The payment of [~~\$15,000~~] ~~\$50,000~~ or less in money, credit,  
11 goods or things in action as consideration for any sale of personal  
12 property which is made on condition that the property be sold back  
13 at a greater price shall, for the purposes of this act, be deemed to be  
14 a loan secured by the property and the amount by which the  
15 repurchase price exceeds the original payment actually paid shall be  
16 deemed interest or charges upon the loan from the date the original  
17 payment is made until the date the repurchase price is paid. The  
18 transaction shall be governed by and be subject to the provisions of  
19 this act as if it were a consumer loan.

20 (cf: P.L.1996, c.157, s.40)

21

22 6. Section 41 of P.L.1996, c.157 (C.17:11C-41) is amended to  
23 read as follows:

24 41. a. No consumer lender shall make any loan upon security of  
25 any assignment of or order for the payment of any salary, wages,  
26 commissions or other compensation for services earned, or to be  
27 earned, nor shall any such assignment or order be taken by a licensee  
28 at any time in connection with any consumer loan, or for the  
29 enforcement or repayment thereof, and any such assignment or order  
30 hereafter so taken or given to secure any loan made by any licensee  
31 under this act shall be void and of no effect.

32 b. No consumer lender shall take a lien upon real estate as security  
33 for any consumer loan, except a lien created by law upon the recording  
34 of a judgment.

35 c. No licensee shall conduct the consumer loan business within any  
36 office, room, or place of business in which any other business is  
37 solicited or engaged in, or in association or conjunction therewith,  
38 except as may be authorized in writing by the commissioner.

39 d. Every consumer loan contract, other than an open-end consumer  
40 loan contract or a variable rate closed-end consumer loan contract  
41 under subsection b. of section 32 of this act, shall provide for  
42 repayment of principal and interest combined in installments which  
43 shall be payable at approximately equal periodic intervals of time and  
44 which shall be so arranged that no installment is substantially greater  
45 in amount than any preceding installment, except that the repayment  
46 schedule may reduce or omit installments when necessary because of

1 the seasonal nature of the borrower's income.

2 e. No person, except as authorized by this act, shall directly or  
3 indirectly charge, contract for, or receive any interest, discount, or  
4 consideration greater than the lender would be permitted by law to  
5 charge if he were not a licensee hereunder upon the loan, use, or  
6 forbearance of money, goods, or things in action, or upon the loan,  
7 use, or sale of credit of the amount of ~~[\$15,000]~~ \$50,000 or less.  
8 This prohibition shall apply to any person who, by any device,  
9 subterfuge, or pretense, shall charge, contract for, or receive greater  
10 interest, consideration, or charges than is authorized by this act for the  
11 loan, use, or forbearance of money, goods, or things in action or for  
12 the loan, use, or sale of credit.

13 f. No consumer loans of the amount or value of ~~[\$15,000]~~  
14 \$50,000 or less for which a greater rate of interest, consideration, or  
15 charge than is permitted by this act has been charged, contracted for,  
16 or received, whenever made, shall be enforced in this State and any  
17 person, partnership, association or corporation in any way  
18 participating therein in this State shall be subject to the provisions of  
19 this act. The foregoing shall not apply to loans legally made in any  
20 state which then has in effect a regulatory small loan law similar in  
21 principle to this act, but an action to enforce any loan made in any  
22 state to a person then residing in this State may be maintained in this  
23 State only if the amount of interest, discount, consideration or other  
24 charge for that loan, demanded to be paid in the action, does not  
25 exceed that permitted to a licensee authorized to engage in the  
26 consumer loan business by this act for a loan of the same amount  
27 repayable in the same manner.

28 (cf: P.L.1996, c.157, s.41)

29

30 7. This act shall take effect immediately.

31

32

33

#### STATEMENT

34

35 This bill provides that a consumer lender licensed pursuant to the  
36 "New Jersey Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et  
37 seq.) who engages in the consumer loan business may make consumer  
38 loans up to \$50,000, an increase from the current maximum loan  
39 amount of \$15,000.

# ASSEMBLY BANKING AND INSURANCE COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3067**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 1, 2001

The Assembly Banking and Insurance Committee reports favorably and with committee amendments, Assembly Bill No. 3067.

This bill, as amended by the committee, provides that a consumer lender licensed pursuant to the "New Jersey Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.) who engages in the consumer loan business may make consumer loans up to \$50,000, an increase from the current maximum loan amount of \$15,000.

The committee amendments clarify that the consumer loan business means the business of making loans of money, credit, goods or things in action which are to be used primarily for personal, family or household purposes and that such loans may be repayable in one or more installments.

[First Reprint]

**ASSEMBLY, No. 3067**

**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

INTRODUCED JANUARY 9, 2001

**Sponsored by:**

**Assemblyman CHRISTOPHER "KIP" BATEMAN**

**District 16 (Morris and Somerset)**

**Assemblyman NEIL M. COHEN**

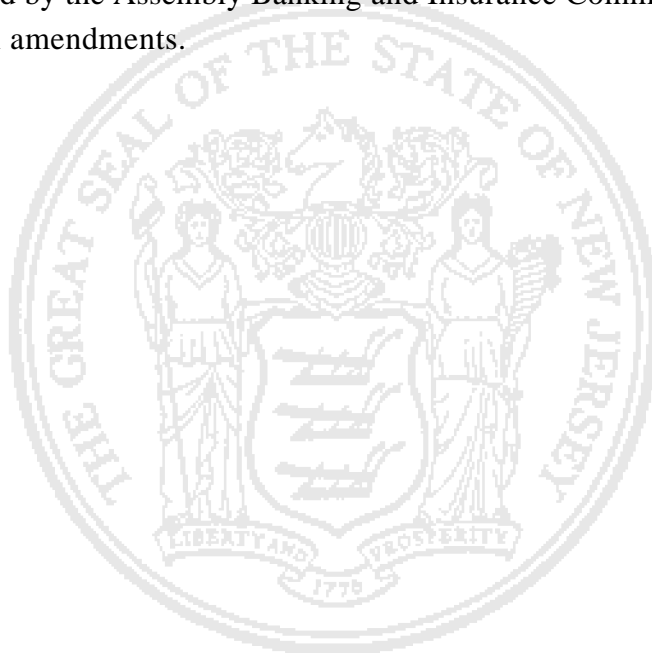
**District 20 (Union)**

**SYNOPSIS**

Allows consumer lenders under the "New Jersey Licensed Lenders Act" to make consumer loans up to \$50,000.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Banking and Insurance Committee on March 1, 2001, with amendments.



**(Sponsorship Updated As Of: 3/2/2001)**

1 AN ACT concerning certain consumer loans and amending P.L.1996,  
2 c.157.

3

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

6

7 1. Section 2 of P.L.1996, c.157 (C.17:11C-2) is amended to read  
8 as follows:

9 2. As used in this act:

10 "Billing cycle" means the time interval between periodic billing  
11 dates. A billing cycle shall be considered monthly if the closing date  
12 of the cycle is the same date each month or does not vary by more than  
13 four days from such date.

14 "Borrower" means any person applying for a loan from a lender  
15 licensed under this act, whether or not the loan is granted, and any  
16 person who has actually obtained such a loan.

17 "Closed-end loan" with respect to a secondary mortgage loan  
18 means a mortgage loan pursuant to which the licensee advances a  
19 specified amount of money and the borrower agrees to repay the  
20 principal and interest in substantially equal installments over a stated  
21 period of time, except that: (1) the amount of the final installment  
22 payment may be substantially greater than the previous installments if  
23 the term of the loan is at least 36 months, or under 36 months if the  
24 remaining term of the first mortgage loan is under 36 months; or (2)  
25 the amount of the installment payments may vary as a result of the  
26 change in the interest rate as permitted by this act. "Closed-end loan"  
27 with respect to a consumer loan means a loan which meets the  
28 requirements of section 35 of P.L.1996, c.157 (C.17:11C-35) and  
29 pursuant to which the licensee advances a specified amount of money  
30 and the borrower agrees to repay the principal and interest in  
31 substantially equal installments over a stated period of time.

32 "Consumer loan business" means the business of making loans of  
33 money, credit, goods or things in action <sup>1</sup>, which are to be used  
34 primarily for personal, family or household purposes,<sup>1</sup> in the amount  
35 or value of ~~[\$15,000]~~ \$50,000 or less and charging, contracting for,  
36 or receiving a greater rate of interest, discount or consideration  
37 therefor than the lender would be permitted by law to charge if he  
38 were not a licensee hereunder, except as authorized by this act and  
39 without first obtaining a license from the commissioner. Any person  
40 directly or indirectly engaging in the business of soliciting or taking  
41 applications for such loans of ~~[\$15,000]~~ \$50,000 or less, or in the

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly ABI committee amendments adopted March 1, 2001.



1 business of negotiating or arranging or aiding the borrower or lender  
2 in procuring or making such loans of ~~[\$15,000]~~ \$50,000 or less, or in  
3 the business of buying, discounting or indorsing notes, or of  
4 furnishing, or procuring guarantee or security for compensation in  
5 amounts of ~~[\$15,000]~~ \$50,000 or less, shall be deemed to be engaging  
6 in the consumer loan business.

7 "Commissioner" means the Commissioner of Banking and  
8 Insurance.

9 "Consumer lender" means a person licensed, or a person who  
10 should be licensed, under this act to engage in the consumer loan  
11 business.

12 "Consumer loan" means a loan of ~~[\$15,000]~~ \$50,000 or less made  
13 by a consumer lender <sup>1</sup>, payable in one or more installments,<sup>1</sup> pursuant  
14 to the terms of this act, and not a first mortgage loan or a secondary  
15 mortgage loan.

16 "Controlling interest" means ownership, control or interest of 25%  
17 or more of the licensee or applicant.

18 "Correspondent mortgage banker" means a mortgage banker who:  
19 (1) in the regular course of business, does not hold mortgage loans in  
20 its portfolio, or service mortgage loans, for more than 90 days; and (2)  
21 has shown to the department's satisfaction an ability to fund loans  
22 through warehouse agreements, table funding agreements or  
23 otherwise.

24 "Department" means the Department of Banking and Insurance.

25 "Depository institution" means a state or federally chartered bank,  
26 savings bank, savings and loan association, building and loan  
27 association or credit union, irrespective of whether the entity accepts  
28 deposits.

29 "First mortgage loan" means any loan secured by a first mortgage  
30 on real property on a one to six family dwelling, a portion of which  
31 may be used for nonresidential purposes.

32 "Licensee" means a person who is licensed under this act, or who  
33 should be so licensed.

34 "Mortgage banker" means any person, not exempt under section 4  
35 of this act and licensed pursuant to the provisions of this act, and any  
36 person who should be licensed pursuant to the provisions of this act,  
37 who for compensation or gain, or in the expectation of compensation  
38 or gain, either directly or indirectly originates, acquires or negotiates  
39 first mortgage loans in the primary market.

40 "Mortgage broker" means any person, not exempt under section 4  
41 of this act and licensed pursuant to the provisions of this act, and any  
42 person who should be licensed pursuant to the provisions of this act,  
43 who for compensation or gain, or in the expectation of compensation  
44 or gain, either directly or indirectly negotiates, places or sells for  
45 others, or offers to negotiate, place or sell for others, first mortgage  
46 loans in the primary market.

1 "Open-end loan" means a secondary mortgage loan made by a  
2 secondary lender or a consumer loan made by a consumer lender  
3 pursuant to a written agreement with the borrower whereby:

4 (1) The lender may permit the borrower to obtain advances of  
5 money from the secondary lender from time to time or the secondary  
6 lender may advance money on behalf of the borrower from time to  
7 time as directed by the borrower;

8 (2) The amount of each advance and permitted interest and charges  
9 are debited to the borrower's account and payments and other credits  
10 are credited to the same account;

11 (3) Interest is computed on the unpaid principal balance or  
12 balances of the account from time to time; and

13 (4) The borrower has the privilege of paying the account in full at  
14 any time or, if the account is not in default, in monthly installments of  
15 fixed or determinable amounts as provided in the agreement.

16 "Person" means an individual, association, joint venture,  
17 partnership, limited partnership association, limited liability company,  
18 corporation, trust, or any other group of individuals however  
19 organized.

20 "Primary market" means the market wherein first mortgage loans  
21 are originated between a lender and a borrower, whether or not  
22 through a mortgage broker or other conduit, and shall not include the  
23 sale or acquisition of a mortgage loan after a mortgage loan is closed.

24 "Sales finance company" shall have the meaning ascribed to that  
25 term in section 1 of P.L.1960, c.40 (C.17:16C-1).

26 "Secondary lender" means a person licensed, or a person who  
27 should be licensed, under this act to engage in the secondary mortgage  
28 loan business.

29 "Secondary mortgage loan" means a loan made to an individual,  
30 association, joint venture, partnership, limited partnership association,  
31 limited liability company, trust, or any other group of individuals,  
32 however organized, except a corporation, which is secured in whole  
33 or in part by a lien upon any interest in real property, including but not  
34 limited to shares of stock in a cooperative corporation, created by a  
35 security agreement, including a mortgage, indenture, or any other  
36 similar instrument or document, which real property is subject to one  
37 or more prior mortgage liens and on which there is erected a structure  
38 containing one, two, three, four, five or six dwelling units, a portion  
39 of which structure may be used for nonresidential purposes, except  
40 that the following loans shall not be subject to the provisions of this  
41 act: (1) a loan which is to be repaid in 90 days or less; (2) a loan which  
42 is taken as security for a home repair contract executed in accordance  
43 with the provisions of the "Home Repair Financing Act," P.L.1960,  
44 c.41 (C.17:16C-62 et seq.); or (3) a loan which is the result of the  
45 private sale of a dwelling, if title to the dwelling is in the name of the  
46 seller and the seller has resided in that dwelling for at least one year,

1 if the buyer is purchasing that dwelling for his own residence and, if  
2 the buyer, as part of the purchase price, executes a secondary  
3 mortgage in favor of the seller.

4 "Secondary mortgage loan business" means advertising, causing to  
5 be advertised, soliciting, negotiating, offering to make or making a  
6 secondary mortgage loan in this State, whether directly or by any  
7 person acting for his benefit.

8 "Solicitor" means any person not licensed as a mortgage banker,  
9 correspondent mortgage banker or mortgage broker who is employed  
10 as a solicitor by one, and not more than one, licensee, who is subject  
11 to the direct supervision and control of that licensee, and who solicits,  
12 provides or accepts first mortgage loan applications, or assists  
13 borrowers in completing first mortgage loan applications, and whose  
14 compensation is in any way based on the dollar amount or volume of  
15 first mortgage loan applications, first mortgage loan closings or other  
16 first mortgage loan activity.

17 (cf: P.L.1999, c.250, s.1)

18

19 2. Section 32 of P.L.1996, c.157 (C.17:11C-32) is amended to  
20 read as follows:

21 32. a. Notwithstanding the provisions of R.S.31:1-1 or any other  
22 law to the contrary, every licensee authorized to engage in the  
23 consumer loan business may loan any sum of money not exceeding  
24 ~~[\$15,000]~~ \$50,000, repayable in <sup>1</sup>an installment or<sup>1</sup> installments, and  
25 may charge, contract for and receive thereon interest at an annual  
26 percentage rate or rates agreed to by the licensee and the borrower.

27 b. A closed-end consumer loan contract may provide for a  
28 variation in the interest rate in which adjustments to the interest rate  
29 shall correspond directly to the movement of an interest rate index  
30 which is readily available to and verifiable by the borrower and is  
31 beyond the control of the lender. No increase during the entire loan  
32 term shall result in an interest rate of more than 6% per annum over  
33 the rate applicable initially, nor shall the rate be raised more than 3%  
34 per annum during any 12-month period. The lender shall not be  
35 obligated to decrease the interest rate more than 6% over the term of  
36 the loan, nor more than 3% per annum during any 12-month period.  
37 If a rate increase is applied to the loan, the lender shall also be  
38 obligated to adopt and implement uniform standards for decreasing the  
39 rate. If the contract provides for the possibility of an increase or  
40 decrease or both in the rate, that fact shall be clearly described in plain  
41 language, in at least 8-point bold face type on the face of the contract.  
42 No rate increase shall take effect unless (1) at least 90 days prior to  
43 the effective date of the first such increase, or 30 days prior to the  
44 effective date of any subsequent increase, a written notice has been  
45 mailed or delivered to the borrower that clearly and conspicuously  
46 describes such increase, and (2) unless at least 365 days have elapsed

1 without any increase in the rate. Where the loan contract so provides  
2 for an increase or decrease in the rate of interest, the installments may  
3 vary in amount, notwithstanding any other law to the contrary, except  
4 that if the rate increases, the borrower may request, and the lender  
5 shall provide for, either an increase in the amount of the installment  
6 payment or an extension of the term of the loan, or some combination  
7 of an increase in the amount of the installment payment and extension  
8 of the term.

9 c. An open-end loan agreement may provide that the lender may at  
10 any time, or from time to time, change the terms of the agreement,  
11 including the terms governing the periodic interest rate, calculation of  
12 interest or the method of computing the required amount of periodic  
13 installment payments, provided however, that:

14 (1) the periodic interest rate shall not be changed more than once  
15 in each billing cycle;

16 (2) any change in the periodic interest rate shall correspond to the  
17 movement of a market interest rate index specified in the agreement  
18 which is readily verifiable by the borrower and beyond the control of  
19 the lender;

20 (3) a change in any term of the agreement, including the periodic  
21 interest rate, may be permitted to apply to any then-outstanding unpaid  
22 indebtedness in the borrower's account, including any indebtedness  
23 which shall have arisen from advances obtained prior to the effective  
24 date of the change, so long as that fact is clearly and conspicuously  
25 disclosed in the agreement;

26 (4) if the agreement provides for the possibility of a change in any  
27 term of the agreement, including the rate, that fact shall be clearly  
28 described in plain language, in at least 8-point bold face type on the  
29 face of the written notice; and

30 (5) no change in any term of the agreement or of the index  
31 specified in the agreement shall be effective unless: (a) at least 30 days  
32 prior to the effective date of the change, a written notice has been  
33 mailed or delivered to the borrower that clearly and conspicuously  
34 describes the change and the indebtedness to which it applies, and  
35 states that the incurrence by the borrower or another person  
36 authorized by him of any further indebtedness under the law to which  
37 the agreement relates on or after the effective date of the change  
38 specified in the notice shall constitute acceptance of the change; and  
39 (b) either the borrower agrees in writing to the change or the borrower  
40 or another person authorized by him incurs further indebtedness on or  
41 after the effective date of the change stated in that notice, which  
42 indebtedness may include outstanding balances. Any borrower who  
43 fails to use the borrower's account or so to indicate agreement to the  
44 change shall be permitted to pay the outstanding unpaid indebtedness  
45 in the borrower's account in accordance with the terms governing the  
46 open-end consumer loan agreement without giving effect to the

1 change.

2 d. The consumer lender shall notify each affected borrower in a  
3 consumer loan agreement of any change in the manner set forth in the  
4 closed-end and open-end agreement governing the plan and in  
5 compliance with the requirements of the federal "Truth in Lending  
6 Act" (15 U.S.C.s.1601 et seq.) and regulations promulgated  
7 thereunder, as in effect from time to time, if applicable.

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

17 f. No interest on a consumer loan shall be paid, deducted, or  
18 received in advance. Interest shall not be compounded and shall be  
19 computed only on unpaid principal balances. For the purpose of  
20 computing interest, all installment payments shall be applied on the  
21 date of receipt, and interest shall be charged for the actual number of  
22 days elapsed at the daily rate of 1/365 of the yearly rate.

23 g. No consumer lender shall induce or permit any person nor any  
24 husband and wife, jointly or severally, to become obligated, directly or  
25 contingently or both, under more than one contract of a consumer loan  
26 at the same time for the purpose of obtaining a higher rate of interest  
27 than would otherwise be permitted by this section. This prohibition  
28 shall not apply to any loan made pursuant to any other law of this  
29 State.

30 (cf: P.L.1996, c.157, s.32)

31

32 3. Section 37 of P.L.1996, c.157 (C.17:11C-37) is amended to  
33 read as follows:

34 37. No licensee authorized to engage in the consumer loan business  
35 shall directly or indirectly charge, contract for, or receive any interest,  
36 discount, or consideration greater than he would be permitted by law  
37 to charge if he were not a licensee under this act upon the loan, use,  
38 or sale of credit, of the amount or value of more than **[\$15,000]**  
39 **\$50,000**. The foregoing prohibition shall also apply to any licensee  
40 who permits any person, as borrower or as indorser, guarantor, or  
41 surety for any borrower, or otherwise, to owe directly or contingently  
42 or both under one or more loan contracts to the licensee at any time  
43 the sum of more than **[\$15,000]** **\$50,000** for principal.

44 (cf: P.L.1996, c.157, s.37)

45

46 4. Section 38 of P.L.1996, c.157 (C.17:11C-38) is amended to

1 read as follows:

2 38. The payment of [~~\$15,000~~] \$50,000 or less in money, credit,  
3 goods or things in action, as consideration for any sale, assignment or  
4 order for the payment of wages, salary, commissions or other  
5 compensation for services, whether earned or to be earned, shall, for  
6 the purposes of this act, be deemed a loan secured by the assignment.  
7 The transaction shall be governed by and subject to the provisions of  
8 this act and any such sale, assignment or order hereafter made shall,  
9 for the purposes of this act, be void and of no effect.

10 (cf: P.L.1996, c.157, s.38)

11

12 5. Section 40 of P.L.1996, c.157 (C.17:11C-40) is amended to  
13 read as follows:

14 40. The payment of [~~\$15,000~~] \$50,000 or less in money, credit,  
15 goods or things in action as consideration for any sale of personal  
16 property which is made on condition that the property be sold back  
17 at a greater price shall, for the purposes of this act, be deemed to be  
18 a loan secured by the property and the amount by which the  
19 repurchase price exceeds the original payment actually paid shall be  
20 deemed interest or charges upon the loan from the date the original  
21 payment is made until the date the repurchase price is paid. The  
22 transaction shall be governed by and be subject to the provisions of  
23 this act as if it were a consumer loan.

24 (cf: P.L.1996, c.157, s.40)

25

26 6. Section 41 of P.L.1996, c.157 (C.17:11C-41) is amended to  
27 read as follows:

28 41. a. No consumer lender shall make any loan upon security of  
29 any assignment of or order for the payment of any salary, wages,  
30 commissions or other compensation for services earned, or to be  
31 earned, nor shall any such assignment or order be taken by a licensee  
32 at any time in connection with any consumer loan, or for the  
33 enforcement or repayment thereof, and any such assignment or order  
34 hereafter so taken or given to secure any loan made by any licensee  
35 under this act shall be void and of no effect.

36 b. No consumer lender shall take a lien upon real estate as security  
37 for any consumer loan, except a lien created by law upon the recording  
38 of a judgment.

39 c. No licensee shall conduct the consumer loan business within any  
40 office, room, or place of business in which any other business is  
41 solicited or engaged in, or in association or conjunction therewith,  
42 except as may be authorized in writing by the commissioner.

43 d. Every <sup>1</sup>multiple installment<sup>1</sup> consumer loan contract, other than  
44 an open-end consumer loan contract or a variable rate closed-end  
45 consumer loan contract under subsection b. of section 32 of this act,  
46 shall provide for repayment of principal and interest combined in

1 installments which shall be payable at approximately equal periodic  
2 intervals of time and which shall be so arranged that no installment is  
3 substantially greater in amount than any preceding installment, except  
4 that the repayment schedule may reduce or omit installments when  
5 necessary because of the seasonal nature of the borrower's income.

6 e. No person, except as authorized by this act, shall directly or  
7 indirectly charge, contract for, or receive any interest, discount, or  
8 consideration greater than the lender would be permitted by law to  
9 charge if he were not a licensee hereunder upon the loan, use, or  
10 forbearance of money, goods, or things in action, or upon the loan,  
11 use, or sale of credit of the amount of ~~[\$15,000]~~ \$50,000 or less.  
12 This prohibition shall apply to any person who, by any device,  
13 subterfuge, or pretense, shall charge, contract for, or receive greater  
14 interest, consideration, or charges than is authorized by this act for the  
15 loan, use, or forbearance of money, goods, or things in action or for  
16 the loan, use, or sale of credit.

17 f. No consumer loans of the amount or value of ~~[\$15,000]~~  
18 \$50,000 or less for which a greater rate of interest, consideration, or  
19 charge than is permitted by this act has been charged, contracted for,  
20 or received, whenever made, shall be enforced in this State and any  
21 person, partnership, association or corporation in any way  
22 participating therein in this State shall be subject to the provisions of  
23 this act. The foregoing shall not apply to loans legally made in any  
24 state which then has in effect a regulatory small loan law similar in  
25 principle to this act, but an action to enforce any loan made in any  
26 state to a person then residing in this State may be maintained in this  
27 State only if the amount of interest, discount, consideration or other  
28 charge for that loan, demanded to be paid in the action, does not  
29 exceed that permitted to a licensee authorized to engage in the  
30 consumer loan business by this act for a loan of the same amount  
31 repayable in the same manner.

32 (cf: P.L.1996, c.157, s.41)

33

34 7. This act shall take effect immediately.

P.L. 2001, CHAPTER 294, *approved December 31, 2001*

Senate, No. 2355

1 AN ACT concerning certain consumer loans and amending P.L.1996,  
2 c.157.

3

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

6

7 1. Section 2 of P.L.1996, c.157 (C.17:11C-2) is amended to read  
8 as follows:

9 2. As used in this act:

10 "Billing cycle" means the time interval between periodic billing  
11 dates. A billing cycle shall be considered monthly if the closing date  
12 of the cycle is the same date each month or does not vary by more than  
13 four days from such date.

14 "Borrower" means any person applying for a loan from a lender  
15 licensed under this act, whether or not the loan is granted, and any  
16 person who has actually obtained such a loan.

17 "Closed-end loan" with respect to a secondary mortgage loan  
18 means a mortgage loan pursuant to which the licensee advances a  
19 specified amount of money and the borrower agrees to repay the  
20 principal and interest in substantially equal installments over a stated  
21 period of time, except that: (1) the amount of the final installment  
22 payment may be substantially greater than the previous installments if  
23 the term of the loan is at least 36 months, or under 36 months if the  
24 remaining term of the first mortgage loan is under 36 months; or (2)  
25 the amount of the installment payments may vary as a result of the  
26 change in the interest rate as permitted by this act. "Closed-end loan"  
27 with respect to a consumer loan means a loan which meets the  
28 requirements of section 35 of P.L.1996, c.157 (C.17:11C-35) and  
29 pursuant to which the licensee advances a specified amount of money  
30 and the borrower agrees to repay the principal and interest in  
31 substantially equal installments over a stated period of time.

32 "Consumer loan business" means the business of making loans of  
33 money, credit, goods or things in action, which are to be used  
34 primarily for personal, family or household purposes, in the amount or  
35 value of ~~[\$15,000]~~ \$50,000 or less and charging, contracting for, or  
36 receiving a greater rate of interest, discount or consideration therefor  
37 than the lender would be permitted by law to charge if he were not a  
38 licensee hereunder, except as authorized by this act and without first  
39 obtaining a license from the commissioner. Any person directly or  
40 indirectly engaging in the business of soliciting or taking applications  
41 for such loans of ~~[\$15,000]~~ \$50,000 or less, or in the business of

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

**Matter underlined thus is new matter.**



1 negotiating or arranging or aiding the borrower or lender in procuring  
2 or making such loans of ~~[\$15,000]~~ \$50,000 or less, or in the business  
3 of buying, discounting or indorsing notes, or of furnishing, or  
4 procuring guarantee or security for compensation in amounts of  
5 ~~[\$15,000]~~ \$50,000 or less, shall be deemed to be engaging in the  
6 consumer loan business.

7 "Commissioner" means the Commissioner of Banking and Insurance.

8 "Consumer lender" means a person licensed, or a person who should  
9 be licensed, under this act to engage in the consumer loan business.

10 "Consumer loan" means a loan of ~~[\$15,000]~~ \$50,000 or less made by  
11 a consumer lender, payable in one or more installments, pursuant to  
12 the terms of this act, and not a first mortgage loan or a secondary  
13 mortgage loan.

14 "Controlling interest" means ownership, control or interest of 25%  
15 or more of the licensee or applicant.

16 "Correspondent mortgage banker" means a mortgage banker who:  
17 (1) in the regular course of business, does not hold mortgage loans in  
18 its portfolio, or service mortgage loans, for more than 90 days; and (2)  
19 has shown to the department's satisfaction an ability to fund loans  
20 through warehouse agreements, table funding agreements or  
21 otherwise.

22 "Department" means the Department of Banking and Insurance.

23 "Depository institution" means a state or federally chartered bank,  
24 savings bank, savings and loan association, building and loan  
25 association or credit union, irrespective of whether the entity accepts  
26 deposits.

27 "First mortgage loan" means any loan secured by a first mortgage on  
28 real property on a one to six family dwelling, a portion of which may  
29 be used for nonresidential purposes.

30 "Licensee" means a person who is licensed under this act, or who  
31 should be so licensed.

32 "Mortgage banker" means any person, not exempt under section 4  
33 of this act and licensed pursuant to the provisions of this act, and any  
34 person who should be licensed pursuant to the provisions of this act,  
35 who for compensation or gain, or in the expectation of compensation  
36 or gain, either directly or indirectly originates, acquires or negotiates  
37 first mortgage loans in the primary market.

38 "Mortgage broker" means any person, not exempt under section 4 of  
39 this act and licensed pursuant to the provisions of this act, and any  
40 person who should be licensed pursuant to the provisions of this act,  
41 who for compensation or gain, or in the expectation of compensation  
42 or gain, either directly or indirectly negotiates, places or sells for  
43 others, or offers to negotiate, place or sell for others, first mortgage  
44 loans in the primary market.

45 "Open-end loan" means a secondary mortgage loan made by a  
46 secondary lender or a consumer loan made by a consumer lender

1 pursuant to a written agreement with the borrower whereby:

2 (1) The lender may permit the borrower to obtain advances of  
3 money from the secondary lender from time to time or the secondary  
4 lender may advance money on behalf of the borrower from time to  
5 time as directed by the borrower;

6 (2) The amount of each advance and permitted interest and charges  
7 are debited to the borrower's account and payments and other credits  
8 are credited to the same account;

9 (3) Interest is computed on the unpaid principal balance or balances  
10 of the account from time to time; and

11 (4) The borrower has the privilege of paying the account in full at  
12 any time or, if the account is not in default, in monthly installments of  
13 fixed or determinable amounts as provided in the agreement.

14 "Person" means an individual, association, joint venture, partnership,  
15 limited partnership association, limited liability company, corporation,  
16 trust, or any other group of individuals however organized.

17 "Primary market" means the market wherein first mortgage loans are  
18 originated between a lender and a borrower, whether or not through  
19 a mortgage broker or other conduit, and shall not include the sale or  
20 acquisition of a mortgage loan after a mortgage loan is closed.

21 "Sales finance company" shall have the meaning ascribed to that term  
22 in section 1 of P.L.1960, c.40 (C.17:16C-1).

23 "Secondary lender" means a person licensed, or a person who should  
24 be licensed, under this act to engage in the secondary mortgage loan  
25 business.

26 "Secondary mortgage loan" means a loan made to an individual,  
27 association, joint venture, partnership, limited partnership association,  
28 limited liability company, trust, or any other group of individuals,  
29 however organized, except a corporation, which is secured in whole  
30 or in part by a lien upon any interest in real property, including but not  
31 limited to shares of stock in a cooperative corporation, created by a  
32 security agreement, including a mortgage, indenture, or any other  
33 similar instrument or document, which real property is subject to one  
34 or more prior mortgage liens and on which there is erected a structure  
35 containing one, two, three, four, five or six dwelling units, a portion  
36 of which structure may be used for nonresidential purposes, except  
37 that the following loans shall not be subject to the provisions of this  
38 act: (1) a loan which is to be repaid in 90 days or less; (2) a loan which  
39 is taken as security for a home repair contract executed in accordance  
40 with the provisions of the "Home Repair Financing Act," P.L.1960,  
41 c.41 (C.17:16C-62 et seq.); or (3) a loan which is the result of the  
42 private sale of a dwelling, if title to the dwelling is in the name of the  
43 seller and the seller has resided in that dwelling for at least one year,  
44 if the buyer is purchasing that dwelling for his own residence and, if  
45 the buyer, as part of the purchase price, executes a secondary  
46 mortgage in favor of the seller.

1 "Secondary mortgage loan business" means advertising, causing to  
2 be advertised, soliciting, negotiating, offering to make or making a  
3 secondary mortgage loan in this State, whether directly or by any  
4 person acting for his benefit.

5 "Solicitor" means any person not licensed as a mortgage banker,  
6 correspondent mortgage banker or mortgage broker who is employed  
7 as a solicitor by one, and not more than one, licensee, who is subject  
8 to the direct supervision and control of that licensee, and who solicits,  
9 provides or accepts first mortgage loan applications, or assists  
10 borrowers in completing first mortgage loan applications, and whose  
11 compensation is in any way based on the dollar amount or volume of  
12 first mortgage loan applications, first mortgage loan closings or other  
13 first mortgage loan activity.

14 (cf: P.L.1999, c.250, s.1)

15

16 2. Section 32 of P.L.1996, c.157 (C.17:11C-32) is amended to read  
17 as follows:

18 32. a. Notwithstanding the provisions of R.S.31:1-1 or any other  
19 law to the contrary, every licensee authorized to engage in the  
20 consumer loan business may loan any sum of money not exceeding  
21 ~~[\$15,000]~~ \$50,000, repayable in an installment or installments, and  
22 may charge, contract for and receive thereon interest at an annual  
23 percentage rate or rates agreed to by the licensee and the borrower.

24 b. A closed-end consumer loan contract may provide for a variation  
25 in the interest rate in which adjustments to the interest rate shall  
26 correspond directly to the movement of an interest rate index which is  
27 readily available to and verifiable by the borrower and is beyond the  
28 control of the lender. No increase during the entire loan term shall  
29 result in an interest rate of more than 6% per annum over the rate  
30 applicable initially, nor shall the rate be raised more than 3% per  
31 annum during any 12-month period. The lender shall not be obligated  
32 to decrease the interest rate more than 6% over the term of the loan,  
33 nor more than 3% per annum during any 12-month period. If a rate  
34 increase is applied to the loan, the lender shall also be obligated to  
35 adopt and implement uniform standards for decreasing the rate. If the  
36 contract provides for the possibility of an increase or decrease or both  
37 in the rate, that fact shall be clearly described in plain language, in at  
38 least 8-point bold face type on the face of the contract. No rate  
39 increase shall take effect unless (1) at least 90 days prior to the  
40 effective date of the first such increase, or 30 days prior to the  
41 effective date of any subsequent increase, a written notice has been  
42 mailed or delivered to the borrower that clearly and conspicuously  
43 describes such increase, and (2) unless at least 365 days have elapsed  
44 without any increase in the rate. Where the loan contract so provides  
45 for an increase or decrease in the rate of interest, the installments may  
46 vary in amount, notwithstanding any other law to the contrary, except

1 that if the rate increases, the borrower may request, and the lender  
2 shall provide for, either an increase in the amount of the installment  
3 payment or an extension of the term of the loan, or some combination  
4 of an increase in the amount of the installment payment and extension  
5 of the term.

6 c. An open-end loan agreement may provide that the lender may at  
7 any time, or from time to time, change the terms of the agreement,  
8 including the terms governing the periodic interest rate, calculation of  
9 interest or the method of computing the required amount of periodic  
10 installment payments, provided however, that:

11 (1) the periodic interest rate shall not be changed more than once in  
12 each billing cycle;

13 (2) any change in the periodic interest rate shall correspond to the  
14 movement of a market interest rate index specified in the agreement  
15 which is readily verifiable by the borrower and beyond the control of  
16 the lender;

17 (3) a change in any term of the agreement, including the periodic  
18 interest rate, may be permitted to apply to any then-outstanding unpaid  
19 indebtedness in the borrower's account, including any indebtedness  
20 which shall have arisen from advances obtained prior to the effective  
21 date of the change, so long as that fact is clearly and conspicuously  
22 disclosed in the agreement;

23 (4) if the agreement provides for the possibility of a change in any  
24 term of the agreement, including the rate, that fact shall be clearly  
25 described in plain language, in at least 8-point bold face type on the  
26 face of the written notice; and

27 (5) no change in any term of the agreement or of the index specified  
28 in the agreement shall be effective unless: (a) at least 30 days prior to  
29 the effective date of the change, a written notice has been mailed or  
30 delivered to the borrower that clearly and conspicuously describes the  
31 change and the indebtedness to which it applies, and states that the  
32 incurrence by the borrower or another person authorized by him of any  
33 further indebtedness under the law to which the agreement relates on  
34 or after the effective date of the change specified in the notice shall  
35 constitute acceptance of the change; and (b) either the borrower  
36 agrees in writing to the change or the borrower or another person  
37 authorized by him incurs further indebtedness on or after the effective  
38 date of the change stated in that notice, which indebtedness may  
39 include outstanding balances. Any borrower who fails to use the  
40 borrower's account or so to indicate agreement to the change shall be  
41 permitted to pay the outstanding unpaid indebtedness in the borrower's  
42 account in accordance with the terms governing the open-end  
43 consumer loan agreement without giving effect to the change.

44 d. The consumer lender shall notify each affected borrower in a  
45 consumer loan agreement of any change in the manner set forth in the  
46 closed-end and open-end agreement governing the plan and in

1 compliance with the requirements of the federal "Truth in Lending  
2 Act" (15 U.S.C.s.1601 et seq.) and regulations promulgated  
3 thereunder, as in effect from time to time, if applicable.

4 e. The interest and periodic payments for consumer loans at these  
5 rates shall be computed from the standard tables based on the actuarial  
6 or annuity method which conforms to the so-called "United States  
7 Rule of Partial Payments," which provides that interest shall be  
8 calculated whenever a payment is made and the payment shall be first  
9 applied to the payment of interest and if it exceeds the interest due, the  
10 balance is to be applied to diminish principal. If the payment is  
11 insufficient to pay the entire amount of interest, the balance of interest  
12 due shall not be added to principal, so as to produce interest thereon.

13 f. No interest on a consumer loan shall be paid, deducted, or  
14 received in advance. Interest shall not be compounded and shall be  
15 computed only on unpaid principal balances. For the purpose of  
16 computing interest, all installment payments shall be applied on the  
17 date of receipt, and interest shall be charged for the actual number of  
18 days elapsed at the daily rate of 1/365 of the yearly rate.

19 g. No consumer lender shall induce or permit any person nor any  
20 husband and wife, jointly or severally, to become obligated, directly or  
21 contingently or both, under more than one contract of a consumer loan  
22 at the same time for the purpose of obtaining a higher rate of interest  
23 than would otherwise be permitted by this section. This prohibition  
24 shall not apply to any loan made pursuant to any other law of this  
25 State.

26 (cf: P.L.1996, c.157, s.32)

27

28 3. Section 37 of P.L.1996, c.157 (C.17:11C-37) is amended to read  
29 as follows:

30 37. No licensee authorized to engage in the consumer loan business  
31 shall directly or indirectly charge, contract for, or receive any interest,  
32 discount, or consideration greater than he would be permitted by law  
33 to charge if he were not a licensee under this act upon the loan, use,  
34 or sale of credit, of the amount or value of more than ~~[\$15,000]~~  
35 \$50,000. The foregoing prohibition shall also apply to any licensee  
36 who permits any person, as borrower or as indorser, guarantor, or  
37 surety for any borrower, or otherwise, to owe directly or contingently  
38 or both under one or more loan contracts to the licensee at any time  
39 the sum of more than ~~[\$15,000]~~ \$50,000 for principal.

40 (cf: P.L.1996, c.157, s.37)

41

42 4. Section 38 of P.L.1996, c.157 (C.17:11C-38) is amended to read  
43 as follows:

44 38. The payment of ~~[\$15,000]~~ \$50,000 or less in money, credit,  
45 goods or things in action, as consideration for any sale, assignment or  
46 order for the payment of wages, salary, commissions or other

1 compensation for services, whether earned or to be earned, shall, for  
2 the purposes of this act, be deemed a loan secured by the assignment.  
3 The transaction shall be governed by and subject to the provisions of  
4 this act and any such sale, assignment or order hereafter made shall,  
5 for the purposes of this act, be void and of no effect.

6 (cf: P.L.1996, c.157, s.38)

7

8 5. Section 40 of P.L.1996, c.157 (C.17:11C-40) is amended to read  
9 as follows:

10 40. The payment of ~~[\$15,000]~~ \$50,000 or less in money, credit,  
11 goods or things in action as consideration for any sale of personal  
12 property which is made on condition that the property be sold back  
13 at a greater price shall, for the purposes of this act, be deemed to be  
14 a loan secured by the property and the amount by which the  
15 repurchase price exceeds the original payment actually paid shall be  
16 deemed interest or charges upon the loan from the date the original  
17 payment is made until the date the repurchase price is paid. The  
18 transaction shall be governed by and be subject to the provisions of  
19 this act as if it were a consumer loan.

20 (cf: P.L.1996, c.157, s.40)

21

22 6. Section 41 of P.L.1996, c.157 (C.17:11C-41) is amended to read  
23 as follows:

24 41. a. No consumer lender shall make any loan upon security of any  
25 assignment of or order for the payment of any salary, wages,  
26 commissions or other compensation for services earned, or to be  
27 earned, nor shall any such assignment or order be taken by a licensee  
28 at any time in connection with any consumer loan, or for the  
29 enforcement or repayment thereof, and any such assignment or order  
30 hereafter so taken or given to secure any loan made by any licensee  
31 under this act shall be void and of no effect.

32 b. No consumer lender shall take a lien upon real estate as security  
33 for any consumer loan, except a lien created by law upon the recording  
34 of a judgment.

35 c. No licensee shall conduct the consumer loan business within any  
36 office, room, or place of business in which any other business is  
37 solicited or engaged in, or in association or conjunction therewith,  
38 except as may be authorized in writing by the commissioner.

39 d. Every multiple installment consumer loan contract, other than an  
40 open-end consumer loan contract or a variable rate closed-end  
41 consumer loan contract under subsection b. of section 32 of this act,  
42 shall provide for repayment of principal and interest combined in  
43 installments which shall be payable at approximately equal periodic  
44 intervals of time and which shall be so arranged that no installment is  
45 substantially greater in amount than any preceding installment, except  
46 that the repayment schedule may reduce or omit installments when

1 necessary because of the seasonal nature of the borrower's income.

2 e. No person, except as authorized by this act, shall directly or  
3 indirectly charge, contract for, or receive any interest, discount, or  
4 consideration greater than the lender would be permitted by law to  
5 charge if he were not a licensee hereunder upon the loan, use, or  
6 forbearance of money, goods, or things in action, or upon the loan,  
7 use, or sale of credit of the amount of ~~[\$15,000]~~ \$50,000 or less. This  
8 prohibition shall apply to any person who, by any device, subterfuge,  
9 or pretense, shall charge, contract for, or receive greater interest,  
10 consideration, or charges than is authorized by this act for the loan,  
11 use, or forbearance of money, goods, or things in action or for the  
12 loan, use, or sale of credit.

13 f. No consumer loans of the amount or value of ~~[\$15,000]~~ \$50,000  
14 or less for which a greater rate of interest, consideration, or charge  
15 than is permitted by this act has been charged, contracted for, or  
16 received, whenever made, shall be enforced in this State and any  
17 person, partnership, association or corporation in any way  
18 participating therein in this State shall be subject to the provisions of  
19 this act. The foregoing shall not apply to loans legally made in any  
20 state which then has in effect a regulatory small loan law similar in  
21 principle to this act, but an action to enforce any loan made in any  
22 state to a person then residing in this State may be maintained in this  
23 State only if the amount of interest, discount, consideration or other  
24 charge for that loan, demanded to be paid in the action, does not  
25 exceed that permitted to a licensee authorized to engage in the  
26 consumer loan business by this act for a loan of the same amount  
27 repayable in the same manner.

28 (cf: P.L.1996, c.157, s.41)

29

30 7. This act shall take effect immediately.

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32

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#### STATEMENT

34

35 This bill, provides that a consumer lender licensed pursuant to the  
36 "New Jersey Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et  
37 seq.) who engages in the consumer loan business may make consumer  
38 loans up to \$50,000, an increase from the current maximum loan  
39 amount of \$15,000. The bill makes it clear that the consumer loan  
40 business means the business of making loans of money, credit, goods  
41 or things in action which are to be used primarily for personal, family  
42 or household purposes, and that these loans may be repayable in one  
43 or more installments.

44

45

46

47 Allows consumer lenders under the "New Jersey Licensed Lenders  
48 Act" to make consumer loans up to \$50,000.

## CHAPTER 294

AN ACT concerning certain consumer loans and amending P.L.1996, c.157.

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

1. Section 2 of P.L.1996, c.157 (C.17:11C-2) is amended to read as follows:

C.17:11C-2 Definitions regarding licensed lenders.

2. As used in this act:

"Billing cycle" means the time interval between periodic billing dates. A billing cycle shall be considered monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from such date.

"Borrower" means any person applying for a loan from a lender licensed under this act, whether or not the loan is granted, and any person who has actually obtained such a loan.

"Closed-end loan" with respect to a secondary mortgage loan means a mortgage loan pursuant to which the licensee advances a specified amount of money and the borrower agrees to repay the principal and interest in substantially equal installments over a stated period of time, except that: (1) the amount of the final installment payment may be substantially greater than the previous installments if the term of the loan is at least 36 months, or under 36 months if the remaining term of the first mortgage loan is under 36 months; or (2) the amount of the installment payments may vary as a result of the change in the interest rate as permitted by this act. "Closed-end loan" with respect to a consumer loan means a loan which meets the requirements of section 35 of P.L.1996, c.157 (C.17:11C-35) and pursuant to which the licensee advances a specified amount of money and the borrower agrees to repay the principal and interest in substantially equal installments over a stated period of time.

"Consumer loan business" means the business of making loans of money, credit, goods or things in action, which are to be used primarily for personal, family or household purposes, in the amount or value of \$50,000 or less and charging, contracting for, or receiving a greater rate of interest, discount or consideration therefor than the lender would be permitted by law to charge if he were not a licensee hereunder, except as authorized by this act and without first obtaining a license from the commissioner. Any person directly or indirectly engaging in the business of soliciting or taking applications for such loans of \$50,000 or less, or in the business of negotiating or arranging or aiding the borrower or lender in procuring or making such loans of \$50,000 or less, or in the business of buying, discounting or indorsing notes, or of furnishing, or procuring guarantee or security for compensation in amounts of \$50,000 or less, shall be deemed to be engaging in the consumer loan business.

"Commissioner" means the Commissioner of Banking and Insurance.

"Consumer lender" means a person licensed, or a person who should be licensed, under this act to engage in the consumer loan business.

"Consumer loan" means a loan of \$50,000 or less made by a consumer lender, payable in one or more installments, pursuant to the terms of this act, and not a first mortgage loan or a secondary mortgage loan.

"Controlling interest" means ownership, control or interest of 25% or more of the licensee or applicant.

"Correspondent mortgage banker" means a mortgage banker who: (1) in the regular course of business, does not hold mortgage loans in its portfolio, or service mortgage loans, for more than 90 days; and (2) has shown to the department's satisfaction an ability to fund loans through warehouse agreements, table funding agreements or otherwise.

"Department" means the Department of Banking and Insurance.

"Depository institution" means a state or federally chartered bank, savings bank, savings and loan association, building and loan association or credit union, irrespective of whether the entity accepts deposits.

"First mortgage loan" means any loan secured by a first mortgage on real property on a one to six family dwelling, a portion of which may be used for nonresidential purposes.

"Licensee" means a person who is licensed under this act, or who should be so licensed.

"Mortgage banker" means any person, not exempt under section 4 of this act and licensed pursuant to the provisions of this act, and any person who should be licensed pursuant to the provisions of this act, who for compensation or gain, or in the expectation of compensation or



gain, either directly or indirectly originates, acquires or negotiates first mortgage loans in the primary market.

"Mortgage broker" means any person, not exempt under section 4 of this act and licensed pursuant to the provisions of this act, and any person who should be licensed pursuant to the provisions of this act, who for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly negotiates, places or sells for others, or offers to negotiate, place or sell for others, first mortgage loans in the primary market.

"Open-end loan" means a secondary mortgage loan made by a secondary lender or a consumer loan made by a consumer lender pursuant to a written agreement with the borrower whereby:

(1) The lender may permit the borrower to obtain advances of money from the secondary lender from time to time or the secondary lender may advance money on behalf of the borrower from time to time as directed by the borrower;

(2) The amount of each advance and permitted interest and charges are debited to the borrower's account and payments and other credits are credited to the same account;

(3) Interest is computed on the unpaid principal balance or balances of the account from time to time; and

(4) The borrower has the privilege of paying the account in full at any time or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement.

"Person" means an individual, association, joint venture, partnership, limited partnership association, limited liability company, corporation, trust, or any other group of individuals however organized.

"Primary market" means the market wherein first mortgage loans are originated between a lender and a borrower, whether or not through a mortgage broker or other conduit, and shall not include the sale or acquisition of a mortgage loan after a mortgage loan is closed.

"Sales finance company" shall have the meaning ascribed to that term in section 1 of P.L.1960, c.40 (C.17:16C-1).

"Secondary lender" means a person licensed, or a person who should be licensed, under this act to engage in the secondary mortgage loan business.

"Secondary mortgage loan" means a loan made to an individual, association, joint venture, partnership, limited partnership association, limited liability company, trust, or any other group of individuals, however organized, except a corporation, which is secured in whole or in part by a lien upon any interest in real property, including but not limited to shares of stock in a cooperative corporation, created by a security agreement, including a mortgage, indenture, or any other similar instrument or document, which real property is subject to one or more prior mortgage liens and on which there is erected a structure containing one, two, three, four, five or six dwelling units, a portion of which structure may be used for nonresidential purposes, except that the following loans shall not be subject to the provisions of this act: (1) a loan which is to be repaid in 90 days or less; (2) a loan which is taken as security for a home repair contract executed in accordance with the provisions of the "Home Repair Financing Act," P.L.1960, c.41 (C.17:16C-62 et seq.); or (3) a loan which is the result of the private sale of a dwelling, if title to the dwelling is in the name of the seller and the seller has resided in that dwelling for at least one year, if the buyer is purchasing that dwelling for his own residence and, if the buyer, as part of the purchase price, executes a secondary mortgage in favor of the seller.

"Secondary mortgage loan business" means advertising, causing to be advertised, soliciting, negotiating, offering to make or making a secondary mortgage loan in this State, whether directly or by any person acting for his benefit.

"Solicitor" means any person not licensed as a mortgage banker, correspondent mortgage banker or mortgage broker who is employed as a solicitor by one, and not more than one, licensee, who is subject to the direct supervision and control of that licensee, and who solicits, provides or accepts first mortgage loan applications, or assists borrowers in completing first mortgage loan applications, and whose compensation is in any way based on the dollar amount or volume of first mortgage loan applications, first mortgage loan closings or other first mortgage loan activity.

2. Section 32 of P.L.1996, c.157 (C.17:11C-32) is amended to read as follows:

C.17:11C-32 Consumer loans permitted by licensees, terms.

32. a. Notwithstanding the provisions of R.S.31:1-1 or any other law to the contrary, every licensee authorized to engage in the consumer loan business may loan any sum of money not exceeding \$50,000, repayable in an installment or installments, and may charge, contract for and receive thereon interest at an annual percentage rate or rates agreed to by the licensee and the borrower.

b. A closed-end consumer loan contract may provide for a variation in the interest rate in which adjustments to the interest rate shall correspond directly to the movement of an interest rate index which is readily available to and verifiable by the borrower and is beyond the control of the lender. No increase during the entire loan term shall result in an interest rate of more than 6% per annum over the rate applicable initially, nor shall the rate be raised more than 3% per annum during any 12-month period. The lender shall not be obligated to decrease the interest rate more than 6% over the term of the loan, nor more than 3% per annum during any 12-month period. If a rate increase is applied to the loan, the lender shall also be obligated to adopt and implement uniform standards for decreasing the rate. If the contract provides for the possibility of an increase or decrease or both in the rate, that fact shall be clearly described in plain language, in at least 8-point bold face type on the face of the contract. No rate increase shall take effect unless (1) at least 90 days prior to the effective date of the first such increase, or 30 days prior to the effective date of any subsequent increase, a written notice has been mailed or delivered to the borrower that clearly and conspicuously describes such increase, and (2) unless at least 365 days have elapsed without any increase in the rate. Where the loan contract so provides for an increase or decrease in the rate of interest, the installments may vary in amount, notwithstanding any other law to the contrary, except that if the rate increases, the borrower may request, and the lender shall provide for, either an increase in the amount of the installment payment or an extension of the term of the loan, or some combination of an increase in the amount of the installment payment and extension of the term.

c. An open-end loan agreement may provide that the lender may at any time, or from time to time, change the terms of the agreement, including the terms governing the periodic interest rate, calculation of interest or the method of computing the required amount of periodic installment payments, provided however, that:

(1) the periodic interest rate shall not be changed more than once in each billing cycle;

(2) any change in the periodic interest rate shall correspond to the movement of a market interest rate index specified in the agreement which is readily verifiable by the borrower and beyond the control of the lender;

(3) a change in any term of the agreement, including the periodic interest rate, may be permitted to apply to any then-outstanding unpaid indebtedness in the borrower's account, including any indebtedness which shall have arisen from advances obtained prior to the effective date of the change, so long as that fact is clearly and conspicuously disclosed in the agreement;

(4) if the agreement provides for the possibility of a change in any term of the agreement, including the rate, that fact shall be clearly described in plain language, in at least 8-point bold face type on the face of the written notice; and

(5) no change in any term of the agreement or of the index specified in the agreement shall be effective unless: (a) at least 30 days prior to the effective date of the change, a written notice has been mailed or delivered to the borrower that clearly and conspicuously describes the change and the indebtedness to which it applies, and states that the incurrence by the borrower or another person authorized by him of any further indebtedness under the law to which the agreement relates on or after the effective date of the change specified in the notice shall constitute acceptance of the change; and (b) either the borrower agrees in writing to the change or the borrower or another person authorized by him incurs further indebtedness on or after the effective date of the change stated in that notice, which indebtedness may include outstanding balances. Any borrower who fails to use the borrower's account or so to indicate agreement to the change shall be permitted to pay the outstanding unpaid indebtedness in the borrower's

account in accordance with the terms governing the open-end consumer loan agreement without giving effect to the change.

d. The consumer lender shall notify each affected borrower in a consumer loan agreement of any change in the manner set forth in the closed-end and open-end agreement governing the plan and in compliance with the requirements of the federal "Truth in Lending Act" (15 U.S.C.s.1601 et seq.) and regulations promulgated thereunder, as in effect from time to time, if applicable.

e. The interest and periodic payments for consumer loans at these rates shall be computed from the standard tables based on the actuarial or annuity method which conforms to the so-called "United States Rule of Partial Payments," which provides that interest shall be calculated whenever a payment is made and the payment shall be first applied to the payment of interest and if it exceeds the interest due, the balance is to be applied to diminish principal. If the payment is insufficient to pay the entire amount of interest, the balance of interest due shall not be added to principal, so as to produce interest thereon.

f. No interest on a consumer loan shall be paid, deducted, or received in advance. Interest shall not be compounded and shall be computed only on unpaid principal balances. For the purpose of computing interest, all installment payments shall be applied on the date of receipt, and interest shall be charged for the actual number of days elapsed at the daily rate of 1/365 of the yearly rate.

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

3. Section 37 of P.L.1996, c.157 (C.17:11C-37) is amended to read as follows:

C.17:11C-37 Prohibited charges for large consumer loans.

37. No licensee authorized to engage in the consumer loan business shall directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than he would be permitted by law to charge if he were not a licensee under this act upon the loan, use, or sale of credit, of the amount or value of more than \$50,000. The foregoing prohibition shall also apply to any licensee who permits any person, as borrower or as indorser, guarantor, or surety for any borrower, or otherwise, to owe directly or contingently or both under one or more loan contracts to the licensee at any time the sum of more than \$50,000 for principal.

4. Section 38 of P.L.1996, c.157 (C.17:11C-38) is amended to read as follows:

C.17:11C-38 Certain payments deemed loan secured by assignment.

38. The payment of \$50,000 or less in money, credit, goods or things in action, as consideration for any sale, assignment or order for the payment of wages, salary, commissions or other compensation for services, whether earned or to be earned, shall, for the purposes of this act, be deemed a loan secured by the assignment. The transaction shall be governed by and subject to the provisions of this act and any such sale, assignment or order hereafter made shall, for the purposes of this act, be void and of no effect.

5. Section 40 of P.L.1996, c.157 (C.17:11C-40) is amended to read as follows:

C.17:11C-40 Loans secured by property.

40. The payment of \$50,000 or less in money, credit, goods or things in action as consideration for any sale of personal property which is made on condition that the property be sold back at a greater price shall, for the purposes of this act, be deemed to be a loan secured by the property and the amount by which the repurchase price exceeds the original payment actually paid shall be deemed interest or charges upon the loan from the date the original payment is made until the date the repurchase price is paid. The transaction shall be governed

by and be subject to the provisions of this act as if it were a consumer loan.

6. Section 41 of P.L.1996, c.157 (C.17:11C-41) is amended to read as follows:

C.17:11C-41 Consumer lenders, prohibited practices.

41. a. No consumer lender shall make any loan upon security of any assignment of or order for the payment of any salary, wages, commissions or other compensation for services earned, or to be earned, nor shall any such assignment or order be taken by a licensee at any time in connection with any consumer loan, or for the enforcement or repayment thereof, and any such assignment or order hereafter so taken or given to secure any loan made by any licensee under this act shall be void and of no effect.

b. No consumer lender shall take a lien upon real estate as security for any consumer loan, except a lien created by law upon the recording of a judgment.

c. No licensee shall conduct the consumer loan business within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, except as may be authorized in writing by the commissioner.

d. Every multiple installment consumer loan contract, other than an open-end consumer loan contract or a variable rate closed-end consumer loan contract under subsection b. of section 32 of this act, shall provide for repayment of principal and interest combined in installments which shall be payable at approximately equal periodic intervals of time and which shall be so arranged that no installment is substantially greater in amount than any preceding installment, except that the repayment schedule may reduce or omit installments when necessary because of the seasonal nature of the borrower's income.

e. No person, except as authorized by this act, shall directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit of the amount of \$50,000 or less. This prohibition shall apply to any person who, by any device, subterfuge, or pretense, shall charge, contract for, or receive greater interest, consideration, or charges than is authorized by this act for the loan, use, or forbearance of money, goods, or things in action or for the loan, use, or sale of credit.

f. No consumer loans of the amount or value of \$50,000 or less for which a greater rate of interest, consideration, or charge than is permitted by this act has been charged, contracted for, or received, whenever made, shall be enforced in this State and any person, partnership, association or corporation in any way participating therein in this State shall be subject to the provisions of this act. The foregoing shall not apply to loans legally made in any state which then has in effect a regulatory small loan law similar in principle to this act, but an action to enforce any loan made in any state to a person then residing in this State may be maintained in this State only if the amount of interest, discount, consideration or other charge for that loan, demanded to be paid in the action, does not exceed that permitted to a licensee authorized to engage in the consumer loan business by this act for a loan of the same amount repayable in the same manner.

7. This act shall take effect immediately.

Approved December 31, 2001.