

LEGISLATIVE HISTORY CHECKLIST

NJSA: 14A:10A-3 et al

"Shareholders Protection-- remove expiration date-- other amendments)

LAWS OF: 1987

CHAPTER: 380

Bill No: S3349/A4004

Sponsor(s): Van Wagner and Villane and Azzolina

Date Introduced: May 21, 1987

Committee: Assembly: Economic Development and Agriculture

Senate: Labor, Industry and Professions

Amended during passage: No Committee Substitute enacted

Date of Passage: Assembly: January 7, 1988

Senate: December 10, 1987

Date of Approval: January 8, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

See newspaper clipping-- attached:

"Jersey firms shielded against hostile takeover," 1-9-88 Star Ledger.

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1-9-88

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3349 and ASSEMBLY, No. 4004
STATE OF NEW JERSEY

ADOPTED NOVEMBER 9, 1987

Sponsored by Senator VAN WAGNER and
Assemblymen VILLANE and AZZOLINA

AN ACT concerning the protection of shareholder rights and amend-
ing P. L. 1986, c. 74 and repealing section 7 of P. L. 1986, c. 74.

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

1 1. Section 3 of P. L. 1986, c. 74 (C. 14A:10A-3) is amended to
2 read as follows:

3 3. As used in this act:

4 a. "Affiliate" means a person that directly, or indirectly through
5 one or more intermediaries, controls, or is controlled by, or is
6 under common control with, a specified person.

7 b. "Announcement date," when used in reference to any busi-
8 ness combination, means the date of the first public announcement
9 of the final, definitive proposal for that business combination.

10 c. "Associate," when used to indicate a relationship with any
11 person, means (1) any corporation or organization of which that
12 person is an officer or partner or is, directly or indirectly, the
13 beneficial owner of 10% or more of any class of voting stock,
14 (2) any trust or other estate in which that person has a substan-
15 tial beneficial interest or as to which that person serves as trustee
16 or in a similar fiduciary capacity, or (3) any relative or spouse
17 of that person, or any relative of that spouse, who has the same
18 home as that person.

19 d. "Beneficial owner," when used with respect to any stock,
20 means a person:

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 printed in italics *thus* is new matter.

21 (1) that, individually or with or through any of its affiliates
22 or associates, beneficially owns that stock, directly or indirectly;

23 (2) that, individually or with or through any of its affiliates
24 or associates, as (a) the right to acquire that stock (whether
25 that right is exercisable immediately or only after the passage
26 of time), pursuant to any agreement, arrangement or understand-
27 ing (whether or not in writing), or upon the exercise of con-
28 version rights, exchange rights, warrants or options, or other-
29 wise; provided, however, that a person shall not be deemed the
30 beneficial owner of stock tendered pursuant to a tender or ex-
31 change offer made by that person or any of that person's affiliates
32 or associates until that tendered stock is accepted for purchase
33 or exchange; or (b) the right to vote that stock pursuant to any
34 agreement, arrangement or understanding (whether or not in
35 writing); provided, however, that a person shall not be deemed
36 the beneficial owner of any stock under this subparagraph if the
37 agreement, arrangement or understanding to vote that stock (i)
38 arises solely from a revocable proxy or consent given in response
39 to a proxy or consent solicitation made in accordance with the
40 applicable rules and regulations under the Exchange Act, and
41 (ii) is not then reportable on a Schedule 13D under the Exchange
42 Act (or any comparable or successor report); or

43 (3) that has any agreement, arrangement or understanding
44 (whether or not in writing), for the purpose of acquiring, hold-
45 ing, voting (except voting pursuant to a revocable proxy or
46 consent as described in subparagraph (b) of paragraph (2) of
47 this subsection, or disposing of that stock with any other person
48 that beneficially owns, or whose affiliates or associates beneficially
49 own, directly or indirectly, that stock.

50 e. "Business combination," when used in reference to any resi-
51 dent domestic corporation and any interested stockholder of that
52 resident domestic corporation, means:

53 (1) any merger or consolidation of that resident domestic corpo-
54 ration or any subsidiary of that resident domestic corporation with
55 (a) that interested stockholder or (b) any other corporation
56 (whether or not it is an interested stockholder of that resident
57 domestic corporation) which is, or after a merger or consolidation
58 would be, an affiliate or associate of that interested stockholder;

59 (2) any sale, lease, exchange, mortgage, pledge, transfer or
60 other disposition (in one transaction or a series of transactions)
61 to or with that interested stockholder or any affiliate or associate
62 of that interested stockholder of assets of that resident domestic
63 corporation or any subsidiary of that resident domestic corpora-

64 tion (a) having an aggregate market value equal to 10% or more
65 of the aggregate market value of all the assets, determined on a
66 consolidated basis, of that resident domestic corporation, (b)
67 having an aggregate market value equal to 10% or more of the
68 aggregate market value of all the outstanding stock of that resi-
69 dent domestic corporation, or (c) representing 10% or more of
70 the earning power or income, determined on a consolidated basis,
71 of that resident domestic corporation;

72 (3) the issuance or transfer by that resident domestic corpora-
73 tion or any subsidiary of that resident domestic corporation (in-
74 one transaction or a series of transactions) of any stock of that
75 resident domestic corporation or any subsidiary of that resident
76 domestic corporation which has an aggregate market value equal
77 to 5% or more of the aggregate market value of all the outstand-
78 ing stock of that resident domestic corporation to that interested
79 stockholder or any affiliate or associate of that interested stock-
80 holder, except pursuant to the exercise of warrants or rights to
81 purchase stock offered, or a dividend or distribution paid or made,
82 pro rata to all stockholders of that resident domestic corporation;

83 (4) the adoption of any plan or proposal for the liquidation or
84 dissolution of that resident domestic corporation proposed by, on
85 behalf of or pursuant to any agreement, arrangement or under-
86 standing (whether or not in writing) with, that interested stock-
87 holder or any affiliate or associate of that interested stockholder;

88 (5) any reclassification of securities (including, without limita-
89 tion, any stock split, stock dividend, or other distribution of stock
90 in respect of stock, or any reverse stock split), or recapitalization
91 of that resident domestic corporation, or any merger or consolida-
92 tion of that resident domestic corporation with any subsidiary of
93 that resident domestic corporation, or any other transaction
94 (whether or not with, or into, or otherwise involving that inter-
95 ested stockholder), proposed by, on behalf of or pursuant to
96 any agreement, arrangement or understanding (whether or not
97 in writing) with, that interested stockholder or any affiliate or
98 associate of that interested stockholder, which has the effect,
99 directly or indirectly, of increasing the proportionate share of the
100 outstanding shares of any class or series of stock or securities
101 convertible into voting stock of that resident domestic corporation
102 or any subsidiary of that resident domestic corporation which is
103 directly or indirectly owned by that interested stockholder or any
104 affiliate or associate of that interested stockholder, except as a
105 result of immaterial changes due to fractional share adjustments;
106 or

107 (6) any receipt by that interested stockholder or any affiliate or
108 associate of that interested stockholder of the benefit, directly or
109 indirectly (except proportionately as a stockholder of that resident
110 domestic corporation), of any loans, advances, guarantees, pledges
111 or other financial assistance or any tax credits or other tax ad-
112 vantages provided by or through that corporation; *provided, how-*
113 *ever, that the term "business combination" shall not be deemed to*
114 *include the receipt of any of the foregoing benefits by that resident*
115 *domestic corporation or any of that corporation's subsidiaries*
116 *arising from transactions (such as intercompany loans or tax shar-*
117 *ing arrangements) between that resident domestic corporation and*
118 *its subsidiaries in the ordinary course of business.*

119 f. "Common stock" means any stock other than preferred stock.

120 g. "Consummation date," with respect to any business combina-
121 tion, means the date of consummation of that business combination.

122 h. "Control," including the terms "controlling" "controlled by"
123 and "under common control with," means the possession, directly
124 or indirectly, of the power to direct or cause the direction of the
125 management and policies of a person, whether through the owner-
126 ship of voting stock, by contract, or otherwise. A person's bene-
127 ficial ownership of 10% or more of the voting power of a corpo-
128 ration's outstanding voting stock shall create a presumption that
129 that person has control of that corporation. Notwithstanding the
130 foregoing in this subsection, a person shall not be deemed to have
131 control of a corporation if that person holds voting power, in
132 good faith and not for the purpose of circumventing this section,
133 as an agent, bank, broker, nominee, custodian or trustee for one
134 or more beneficial owners who do not individually or as a group
135 have control of that corporation.

136 i. "Exchange Act" means the "Securities Exchange Act of 1934,"
137 48 Stat. 881 (15 U. S. C. § 78a et seq.) as the same has been or
138 hereafter may be amended from time to time.

139 j. "Interested stockholder," when used in reference to any resi-
140 dent domestic corporation, means any person (other than that
141 resident domestic corporation or any subsidiary of that resident
142 domestic corporation or a bank holding company as defined in the
143 "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U. S. C.
144 § 1841 et seq.) as amended, or any subsidiary of a bank holding
145 company) that:

145A (1) is the beneficial owner, directly or indirectly, of 10% or
145B more of the voting power of the outstanding voting stock of that
145C resident domestic corporation; or

146 (2) is an affiliate or associate of that resident domestic corpora-
147 tion and at any time within the five-year period immediately prior
148 to the date in question was the beneficial owner, directly or in-
149 directly, of 10% or more of the voting power of the then outstand-
150 ing stock of that resident domestic corporation. For the purpose
151 of determining whether a person is an interested stockholder
152 pursuant to this subsection, the number of shares of voting stock
153 of that resident domestic corporation deemed to be outstanding
154 shall include shares deemed to be beneficially owned by the person
155 through application of subsection d. of this section but shall not
156 include any other unissued shares of voting stock of that resident
157 domestic corporation which may be issuable pursuant to any agree-
158 ment, arrangement or understanding, or upon exercise of conver-
159 sion rights, warrants or options, or otherwise.

160 k. "Market value," when used in reference to property of any
161 resident domestic corporation, means:

162 (1) in the case of stock, the highest closing sale price during the
163 30-day period immediately preceding the date in question of a
164 share of that stock on the composite tape for New York Stock
165 Exchange-listed stocks, or, if that stock is not quoted on that
166 composite tape or if that stock is not listed on that exchange, on
167 the principal United States securities exchange registered under
168 the Exchange Act on which that stock is listed, or, if that stock is
169 not listed on any such exchange, the highest closing bid quotation
170 with respect to a share of that stock during the 30-day period
171 preceding the date in question on the National Association of
172 Securities Dealers, Inc. Automated Quotations System, or any
173 system then in use, or if no such quotations are available, the fair
174 market value on the date in question of a share of that resident
175 domestic stock as determined by the board of directors of that
176 corporation in good faith; and

177 (2) in the case of property other than cash or stock, the fair
178 market value of that property on the date in question as deter-
179 mined by the board of directors of that resident domestic corpora-
180 tion in good faith.

181 l. "Preferred stock" means any class or series of stock of a
182 resident domestic corporation which under the bylaws or certificate
183 of incorporation of that resident domestic corporation is entitled
184 to receive payment of dividends prior to any payment of dividends
185 on some other class or series of stock, or is entitled in the event
186 of any voluntary liquidation, dissolution or winding up of the
187 resident domestic corporation to receive payment or distribution
188 of a preferential amount before any payments or distributions are
189 received by some other class or series of stock.

190 m. "Resident domestic corporation" means an issuer of voting
 191 stock which is organized under the laws of this State and, as of
 192 the stock acquisition date in question, has its principal executive
 193 offices **[and]** *located in this State or* significant business opera-
 194 tions located in this State.

195 n. "Stock" means:

196 (1) any stock or similar security, any certificate of interest, any
 197 participation in any profit sharing agreement, any voting trust
 198 certificate, or any certificate of deposit for stock; and

199 (2) any security convertible, with or without consideration, into
 200 stock, or any warrant, call or other option or privilege of buying
 201 stock without being bound to do so, or any other security carrying
 202 any right to acquire, subscribe to or purchase stock.

203 o. "Stock acquisition date," with respect to any person and any
 204 resident domestic corporation, means the date that that person
 205 first becomes an interested stockholder of that resident domestic
 206 corporation.

207 p. "Subsidiary" of any resident domestic corporation means
 208 any other corporation of which voting stock having a majority of
 209 the votes entitled to be cast is owned, directly or indirectly, by
 210 that resident domestic corporation.

211 q. "Voting stock" means shares of capital stock of a corporation
 212 entitled to vote generally in the election of directors.

1 2. Section 5 of P. L. 1986, c. 74 (C. 14A:10A-5) is amended to
 2 read as follows:

3 5. In addition to the restriction contained in section 4 of this
 4 act, and accept as provided in section 6 of this act, no resident
 5 domestic corporation shall engage at any time in any business
 6 combination with any interested stockholder of that resident do-
 7 mestic corporation other than a business combination specified in
 8 any one of **[subsections]** *subsection a., b. or c. of this section (the*
 9 *satisfaction of any one subsection being sufficient)*:

10 a. a business combination approved by the board of directors
 11 of that resident domestic corporation prior to that interested
 12 stockholder's stock acquisition date.

13 b. a business combination approved by the affirmative vote of
 14 the holders of two-thirds of the voting stock not beneficially owned
 15 by that interested stockholder at a meeting called for such purpose.

16 c. a business combination that meets all of the following condi-
 17 tions:

18 (1) the aggregate amount of the cash and the market value, as
 19 of the consummation date, of consideration other than cash to be

20 received per share by holders of outstanding shares of common
21 stock of that resident domestic corporation in that business com-
22 bination is at least equal to the higher of the following:

23 (a) the highest per share price (including any brokerage com-
24 missions, transfer taxes and soliciting dealers' fees) paid by that
25 interested stockholder for any shares of common stock of the
26 same class or series acquired by it (i) within the five-year period
27 immediately prior to the announcement date with respect to that
28 business combination, or (ii) within the five-year period imme-
29 diately prior to, or in, the transaction in which that interested
30 stockholder became an interested stockholder, whichever is higher;
31 plus, in either case, interest compounded annually from the earliest
32 date on which that highest per share acquisition price was paid
33 through the consummation date at the rate for one-year United
34 States Treasury obligations from time to time in effect; less the
35 aggregate amount of any cash dividends paid, and the market value
36 of any dividends paid other than in cash, per share of common
37 stock since that earliest date, up to the amount of that interest;
38 and

39 (b) the market value per share of common stock on the an-
40 nouncement date with respect to that business combination or on
41 that interested stockholder's stock acquisition date, whichever is
42 higher; plus interest compounded annually from that date through
43 the consummation date at the rate for one-year United States
44 Treasury obligations from time to time in effect; less the aggre-
45 gate amount of any cash dividends paid, and the market value of
46 any dividends paid other than in cash, per share of common stock
47 since that date, up to the amount of that interest;

48 (2) the aggregate amount of the cash and the market value as
49 of the consummation date of consideration other than cash to be
50 received per share by holders of outstanding shares of any class
51 or series of stock, other than common stock, of that resident domes-
52 tic corporation is at least equal to the highest of the following
53 (whether or not that interested stockholder has previously acquired
54 any shares of that class or series of stock):

55 (a) the highest per share price (including any brokerage com-
56 missions, transfer taxes and soliciting dealers' fees) paid by that
57 interested stockholder for any shares of that class or series of
58 stock acquired by it (i) within the five-year period immediately
59 prior to the announcement date with respect to that business com-
60 bination, or (ii) within the five-year period immediately prior to,
61 or in, the transaction in which that interested stockholder became
62 an interested stockholder, whichever is higher; plus, in either case,

63 interest compounded annually from the earliest date on which that
64 highest per share acquisition price was paid through the consum-
65 mation date at the rate for one-year United States Treasury
66 obligations from time to time in effect; less the aggregate amount
67 of any cash dividends paid, and the market value of any dividends
68 paid other than in cash, per share of that class or series of stock
69 since that earliest date, up to the amount of that interest;

70 (b) the highest preferential amount per share to which the
71 holders of shares of that class or series of stock are entitled in
72 the event of any liquidation, dissolution or winding up of that
73 resident domestic corporation, plus the aggregate amount of any
74 dividends declared or due as to which those holders are entitled
75 prior to payment of dividends on some other class or series of
76 stock (unless the aggregate amount of those dividends is included
77 in that preferential amount); and

78 (c) the market value per share of that class or series of stock
79 on the announcement date with respect to that business combina-
80 tion or on that interested stockholder's stock acquisition date,
81 whichever is higher; plus interest compounded annually from that
82 date through the consummation date at the rate for one-year
83 United States Treasury obligations from time to time in effect;
84 less the aggregate amount of any cash dividends paid, and the
85 market value of any dividends paid other than in cash, per share
86 of that class or series of stock since that date, up to the amount of
87 that interest;

88 (3) the consideration to be received by holders of a particular
89 class or series of outstanding stock (including common stock) of
90 that resident domestic corporation in that business combination
91 is in cash or in the same form as the interested stockholder has
92 used to acquire the largest number of shares of that class or series
93 of stock previously acquired by it;

94 (4) the holders of all outstanding shares of stock of that resi-
95 dent domestic corporation not beneficially owned by that interested
96 stockholder immediately prior to the consummation of that busi-
97 ness combination are entitled to receive in that business combina-
98 tion cash or other consideration for those shares in compliance
99 with paragraphs (1), (2) and (3) of this subsection; and

100 (5) after that interested stockholder's stock acquisition date
101 and prior to the consummation date with respect to that business
102 combination, that interested stockholder has not become the bene-
103 ficial owner of any additional shares of stock of that resident
104 domestic corporation, except:

105 (a) as part of the transaction which resulted in that interested
106 stockholder becoming an interested stockholder;

107 (b) by virtue of proportionate stock splits, stock dividends or
108 other distributions of stock in respect of stock not constituting a
109 business combination under paragraph (5) of subsection e. of
110 section 2 of this act;

111 (c) through a business combination meeting all of the conditions
112 of paragraphs (3) and this paragraph; or

113 (d) through purchase by that interested stockholder at any
114 price which, if that price had been paid in an otherwise permis-
115 sible business combination, the announcement date and consumma-
116 tion date of which were the date of that purchase, would have
117 satisfied the requirements of paragraphs (1), (2) and (3) of this
118 subsection.

1 3. Section 6 of P. L. 1986, c. 74 (C. 14A:10A-6) is amended to
2 read as follows:

3 6. a. Unless the certificate of incorporation provides otherwise,
4 the provisions of this act shall not apply to any business combina-
5 tion of a resident domestic corporation with an interested stock-
6 holder if the resident domestic corporation did not have a class of
7 voting stock registered or traded on a national securities exchange
8 or registered with the Securities and Exchange Commission pur-
9 suant to section 12(g) of the Exchange Act, 48 Stat. 892 (15
10 U. S. C. § 781) on that interested stockholder's stock acquisition
11 date.

12 b. Unless the certificate of incorporation provides otherwise the
13 provisions of this act shall not apply to any business combina-
14 tion with an interested stockholder who was an interested stock-
15 holder prior to the effective date of this act unless subsequent
16 thereto that interested stockholder increased his or its interested
17 stockholder's proportion of the voting power of the resident do-
18 mestic corporation's outstanding voting stock to a proportion in
19 excess of the proportion of voting power that interested stockholder
20 held prior to the effective date of this act.

21 c. ~~【The provisions of this act shall not apply to any business~~
22 ~~combination of a resident domestic corporation with an interested~~
23 ~~stockholder of that corporation which became an interested stock-~~
24 ~~holder on or after January 12, 1988.】~~ *(Deleted by amendment,*
25 *P. L. 1987, c. . . .) (now pending before the Legislature as this bill.)*

26 d. The provisions of this act shall not apply to any business
27 combination of a resident domestic corporation with an interested
28 stockholder of that corporation which became an interested stock-
29 holder inadvertently, if such interested stockholder (1) as soon as

30 practicable divests itself or himself of a sufficient amount of the
 31 voting stock of that resident domestic corporation so that he or it
 32 no longer is the beneficial owner, directly or indirectly, of 10%
 33 or more of the voting power of the outstanding voting stock of that
 34 corporation, or a subsidiary of that resident domestic corporation,
 35 and (2) would not at any time within the five-year period preced-
 36 ing the announcement date with respect to that business combina-
 37 tion have been an interested stockholder but for that inadvertent
 38 acquisition.

39 e. The provisions of this act shall not apply to any business
 40 combination of a resident domestic corporation which is a "bank
 41 holding company" as defined in the "Bank Holding Company Act
 42 of 1956," 70 Stat. 133 (12 U. S. C. § 1841 et seq.) as amended, or
 43 a subsidiary of the bank holding company with an interested stock-
 44 holder of that resident domestic corporation.

45 f. *The provisions of this act shall not apply to any business com-
 46 bination of a resident domestic corporation with an interested stock-
 47 holder of that corporation which, prior to August 5, 1986, became
 48 the beneficial owner of more than 50% of the voting power of the
 49 outstanding voting stock of that resident domestic corporation by
 50 reason of a purchase of voting stock directly from that resident
 51 domestic corporation in a transaction approved by the board of
 52 directors of that resident domestic corporation, provided that, at
 53 the time of the approval, none of the directors of the resident do-
 54 mestic corporation was an employee, officer, director, shareholder,
 55 affiliate or associate of the interested stockholder.*

1 4. Section 9 of P. L. 1986, c. 74 is amended to read as follows:

2 9. This act shall take effect [immediately and shall be retro-
 3 active to January 23, 1986] as of August 5, 1986.

1 5. This act shall take effect immediately.

COMMERCE AND INDUSTRY

Removes sunset provision from the "New Jersey Shareholders
 Protecton Act."

SENATE, No. 3349

STATE OF NEW JERSEY

INTRODUCED MAY 21, 1987

By Senator VAN WAGNER

Referred to Committee on Labor, Industry and Professions

AN ACT concerning the protection of shareholder rights and amending P. L. 1986, c. 74 and repealing section 7 of P. L. 1986, c. 74.

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

1 1. Section 6 of P. L. 1986, c. 74 (C. 14A:10A-6) is amended to
2 read as follows:

3 6. a. Unless the certificate of incorporation provides otherwise,
4 the provisions of this act shall not apply to any business combina-
5 tion of a resident domestic corporation with an interested stock-
6 holder if the resident domestic corporation did not have a class of
7 voting stock registered or traded on a national securities exchange
8 or registered with the Securities and Exchange Commission pur-
9 suant to section 12(g) of the Exchange Act, 48 Stat. 892, (15
10 U. S. C. § 78l.) on that interested stockholder's stock acquisition
11 date.

12 b. Unless the certificate of incorporation provides otherwise the
13 provisions of this act shall not apply to any business combina-
14 tion with an interested stockholder who was an interested stock-
15 holder prior to the effective date of this act unless subsequent
16 thereto that interested stockholder increased his or its interested
17 stockholder's proportion of the voting power of the resident
18 domestic corporation's outstanding voting stock to a proportion
19 in excess of the proportion of voting power that interested stock-
20 holder held prior to the effective date of this act.

21 c. **[**The provisions of this act shall not apply to any business
22 combination of a resident domestic corporation with an interested
23 stockholder of that corporation which became an interested stock-

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 printed in italics *thus* is new matter.

24 holder on or after January 12, 1988.] *(Deleted by amendment,*
 25 *P. L. 1987, c. . . .) (now pending before the Legislature as this*
 26 *bill.)*

27 d. The provisions of this act shall not apply to any business
 28 combination of a resident domestic corporation with an interested
 29 stockholder of that corporation which became an interested stock-
 30 holder inadvertently, if such interested stockholder (1) as soon as
 31 practicable divests itself or himself of a sufficient amount of the
 32 voting stock of that resident domestic corporation so that he or it
 33 no longer is the beneficial owner, directly or indirectly, of 10%
 34 or more of the voting power of the outstanding voting stock of that
 35 corporation, or a subsidiary of that resident domestic corpora-
 36 tion and (2) would not at any time within the five-year period
 37 preceding the announcement date with respect to that business
 38 combination have been an interested stockholder but for that in-
 39 advertent acquisition.

40 e. The provisions of this act shall not apply to any business
 41 combination of a resident domestic corporation which is a "bank
 42 holding company" as defined in the "Bank Holding Company Act
 43 of 1956," 70 Stat. 133, (12 U. S. C. § 1841 et seq.) as amended, or
 44 a subsidiary of the bank holding company with an interested stock-
 45 holder of that resident domestic corporation.

1 2. Section 7 of P. L. 1986, c. 74 is repealed.

1 3. This act shall take effect immediately.

STATEMENT

This bill removes the sunset provision from the "New Jersey Shareholders Protection Act" and repeals the provision in that act requiring a study by the Office of Economic Policy to evaluate the economic impact of that act.

COMMERCE AND INDUSTRY

Removes sunset provision from "Shareholders Protection Act."

ASSEMBLY, No. 4004
STATE OF NEW JERSEY

INTRODUCED MAY 21, 1987

By Assemblymen VILLANE and AZZOLINA

AN Act concerning the protection of shareholder rights and amending P. L. 1986, c. 74 and repealing section 7 of P. L. 1986, c. 74.

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

1 1. Section 6 of P. L. 1986, c. 74 (C. 14A:10A-6) is amended to
2 read as follows:

3 6. a. Unless the certificate of incorporation provides otherwise,
4 the provisions of this act shall not apply to any business combina-
5 tion of a resident domestic corporation with an interested stock-
6 holder if the resident domestic corporation did not have a class
7 of voting stock registered or traded on a national securities ex-
8 change or registered with the Securities and Exchange Commis-
9 sion pursuant to section 12(g) of the Exchange Act, 48 Stat. 892,
10 (15 U. S. C. § 781.) on that interested stockholder's stock acqui-
11 sition date.

12 b. Unless the certificate of incorporation provides otherwise,
13 the provisions of this act shall not apply to any business combina-
14 tion with an interested stockholder who was an interested stock-
15 holder prior to the effective date of this act unless subsequent
16 thereto that interested stockholder increased his or its interested
17 stockholder's proportion of the voting power of the resident
18 domestic corporation's outstanding voting stock to a proportion
19 in excess of the proportion of voting power that interested stock-
20 holder held prior to the effective date of this act.

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 printed in italics thus is new matter.

21 c. [The provisions of this act shall not apply to any business
 22 combination of a resident domestic corporation with an interested
 23 stockholder of that corporation which became an interested stock-
 24 holder on or after January 12, 1988.] *(Deleted by amendment,*
 25 *P. L. 1987, c.) (now pending before the Legislature as this*
 26 *bill).*

27 d. The provisions of this act shall not apply to any business
 28 combination of a resident domestic corporation with an interested
 29 stockholder of that corporation which became an interested stock-
 30 holder inadvertently, if such interested stockholder (1) as soon as
 31 practicable divests itself or himself of a sufficient amount of the
 32 voting stock of that resident domestic corporation so that he or it
 33 no longer is the beneficial owner, directly or indirectly, of 10%
 34 or more of the voting power of the outstanding voting stock of that
 35 corporation, or a subsidiary of that resident domestic corpora-
 36 tion and (2) would not at any time within the five-year period
 37 preceding the announcement date with respect to that business
 38 combination have been an interested stockholder but for that in-
 39 advertent acquisition.

40 e. The provisions of this act shall not apply to any business
 41 combination of a resident domestic corporation which is a "bank
 42 holding company" as defined in the "Bank Holding Company Act
 43 of 1956," 70 Stat. 133, (12 U. S. C. § 1841 et seq.) as amended,
 44 or a subsidiary of the bank holding company with an interested
 45 stockholder of that resident domestic corporation.

1 2. Section 7 of P. L. 1986, c. 74 is repealed.

1 3. This act shall take effect immediately.

STATEMENT

This bill removes the sunset provision from the "New Jersey Shareholders Protection Act" and repeals the provision in that act requiring a study by the Office of Economic Policy to evaluate the economic impact of that act.

COMMERCE AND INDUSTRY

Removes sunset provision from "Shareholders Protection Act."

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ASSEMBLY ECONOMIC DEVELOPMENT AND
AGRICULTURE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4004

STATE OF NEW JERSEY

DATED: JUNE 11, 1987

This bill removes the sunset provision from the "New Jersey Shareholders Protection Act," P. L. 1986, c. 74 (C. 14A:10A-1 et seq.), under which the provisions of that act do not apply to any business combination occurring on or after January 12, 1988. The bill also removes the provision of that act requiring the Office of Economic Policy to evaluate the economic impact of the act on New Jersey's stockholders, corporations and economy and issue a report on or before September 8, 1987.

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SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3349 and ASSEMBLY, No. 4004
STATE OF NEW JERSEY

DATED: OCTOBER 26, 1987

This bill, Senate Committee Substitute for Senate Bill No. 3349 and Assembly Bill No. 4004, removes the sunset provision from the "New Jersey Shareholders Protection Act," P. L. 1986, c. 74 (C. 14A:10A-1 et seq.), under which the provisions of that act do not apply to any business combination of a resident domestic corporation with an interested stockholder of that corporation who became an interested stockholder on or after January 12, 1983.

The bill amends paragraph (6) of subsection e. of section 3 of P. L. 1986, c. 74 (C. 14A:10A-3) to prevent that provision of law, which prohibits certain transactions, from inadvertently being read to prohibit loans and other ordinary transactions between a company and its subsidiaries. The definition of "resident domestic corporation" is broadened to include additional corporations by changing the definition so that a resident domestic corporation must be incorporated in New Jersey and have either its principal executive offices located in this State or significant business operations located in this State, instead of having both located in this State. The retroactivity of P. L. 1986, c. 74 (C. 14A:10A-1 et seq.) was removed by making that act effective on August 5, 1986, the date that act was signed into law. Two other minor changes were made to the act—one of a technical nature and one which provides relief, by exemption, to certain friendly takeovers which were commenced prior to August 5, 1986 (the date of enactment of the act) and were unable to be completed because provisions of that act, which did not exist at the time, were not complied with.