

LEGISLATIVE NOTES ON R.S. 17:12B - 151, 153, 155 and 168
(Saving and Loan Associations - lending limitations)

COPY 11

L. 1969 - C.231 - S520

Introduced February by Farley

Bill had statement (copy enclosed)

Not amended during passage

Governor made statement upon signing (copy enclosed)

This bill was listed as "approved", with reasons, in:

974.905 New Jersey of Realtor Boards

R286 New Jersey realtor

Vol 11, No. 4, April, 1969. page 3 (copy enclosed)

Article in periodical on this act:

"Amendments change S & L lending"

974.905 New Jersey Saving and Loan League

S26 Saving and loan guide

January 1970, page 8 (copy enclosed)

We checked the following without success:

V.F.--N.J.--Banks & banking

V.F.--N.J.--Loans

V.F.--N.J.--Mortgages

RSL/AS

*Journalists
see copy 2*

SENATE, No. 520

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 17, 1969

By Senator FARLEY

Referred to Committee on Banking and Insurance

AN ACT to amend the "Savings and Loan Act (1963)," approved August 30, 1963 (P. L. 1963, c. 144).

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

1 1. Section 151 of the act of which this act is amendatory
2 (C. 17:12B-151) is amended to read as follows:

3 151. Construction loans. A mortgage loan may be made subject
4 to the provisions of sections 146 through 149 of this act, for the
5 purpose of enabling the borrower to make improvements to real
6 property owned by such borrower and to construct a building or
7 buildings upon such real property, under the following conditions
8 and limitations:

9 (1) The appraisal committee acting under the provisions of
10 section 167 of this act shall include the values of the following
11 items in rendering such appraisal:

12 (a) The value of the proposed building or buildings to be
13 constructed.

14 (b) The value of the land.

15 (c) The value of improvements to be made to the land.

16 (2) An association may advance moneys on such loan as the land
17 is improved and as the construction of a building or buildings
18 proceeds thereon. Where such loan is a straight mortgage loan,
19 the proceeds of which are used or to be used in pursuance of a
20 plan to improve the mortgaged real estate it may, notwithstanding
21 the limitations of section 149 of this act, be made in an amount
22 not to exceed 80% of the value of such real estate as found by
23 appraisal at the time the loan is granted and for a term of not
24 more than **[1]** *3* **[year]** *years*, and provided further that such a
25 loan may be renewed for a further period of not more than 1 year.

26 (3) At no time shall a greater sum be advanced on account of

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

27 such land than is authorized by either the appraiser or appraisers,
28 provided for in section 167 of this act, or an officer of the associa-
29 tion, designated for that purpose by the board, and such com-
30 mittee or officer shall certify that such advancement is warranted
31 by the state of improvements to the land or the state of completion
32 of the construction on such land; provided, however, that at no
33 time shall the association advance moneys in excess of 80% of
34 the value of the land and of the construction completed at the
35 time of such advance.

36 For the purpose of complying with the provisions of sections 146
37 through 149 of this act limiting the term of a mortgage loan, a loan
38 made under the provisions of this section shall be deemed to have
39 been made when the final advance is made to the borrower or 18
40 months from the date of the mortgage securing such loan, which-
41 ever is earlier.

1 2. Section 153 of the act of which this act is amendatory
2 (C. 17:12B-153) is amended to read as follows:

3 153. The commissioner shall have power, in relation to loans or
4 investments described in section 152, to set forth in such regula-
5 tions the requirements which in his judgment are necessary to
6 establish appropriate safeguards. The commissioner may also
7 establish a requirement that an insured association shall meet
8 minimum reserve requirements which may be set forth in such
9 regulations, in order to be eligible to make loans or investments
10 under the provisions of section 152 of this act. The commissioner,
11 when issuing such regulations, shall to the extent feasible and after
12 giving consideration to the financial and economic circumstances
13 and the public welfare, endeavor to promulgate such rules and
14 regulations in substantial conformity with similar rules and regula-
15 tions of the Federal Home Loan Bank Board as applied to Federal
16 associations. In no event shall an insured association make any
17 loan or investment under the provisions of section 152 of this act
18 when the total of all loans or investments held, under the provisions
19 of such section, exceeds an amount equal to ~~20%~~ 25% of its total
20 assets.

1 3. Section 155 of the act of which this act is amendatory
2 (C. 17:12B-155) is amended to read as follows:

3 155. Other loans. Other loans may be made as follows:

4 A. Account loans. Loans secured by a pledge of a member's
5 savings account. No such loan shall exceed the withdrawal value
6 of the pledged account, less interest thereon for a period of 6
7 months.

8 B. Purchase of loans. An association may purchase any mort-
9 gage loan, property repair, alteration, improvement or rehabilita-
10 tion loan, or any other loan which an association is authorized to
11 make.

12 C. Loans secured by a mortgage upon a lease of the fee of real
13 property. Any association may invest in any obligation secured
14 by a mortgage which is a first lien, as defined in section 11 of this
15 act, on a lease of the fee of real property located in this State.
16 The term of the leasehold interest securing such loan shall be not
17 less than 50 years from the date such loan is granted, otherwise;
18 such loans shall be made pursuant to sections 146 through 154, 167
19 and 168 of this act.

20 D. Camp meeting leaseholds. An association may invest in any
21 obligation secured by a first mortgage, as defined in section 11 of
22 this act, on any leasehold estate of real estate, in this State, of
23 any camp meeting association, to the extent authorized by, and
24 subject to, the limitations and restrictions contained in section
25 17:2-1 of the Revised Statutes.

26 E. Loans otherwise authorized. An association may make any
27 other loan which it may be authorized to make by any law of this
28 State.

29 F. Loans on apartments established under the "Horizontal Prop-
30 erty Act." An association may invest in any obligation secured by
31 a mortgage which is a first lien, as defined in section 11 of this act,
32 on an apartment which is part of a horizontal property regime
33 established under the "Horizontal Property Act." All such loans
34 shall be made pursuant to sections 146 through 154, 167 and 168
35 of this act.

36 G. Educational loans. In addition to the authority otherwise
37 granted by law for an association to make loans guaranteed or
38 insured in whole or in part by the United States of America or the
39 State of New Jersey, or any instrumentality or agency of either
40 of them, or for which a commitment to so guarantee or insure has
41 been made, an association may make any loans so guaranteed or
42 insured or for which a commitment to so guarantee or insure has
43 been made where such loans are made for the purpose of financing
44 the expenses of higher education. Such loans may be made in ac-
45 cordance with the term sand conditions permitted by the guaran-
46 teeing or insuring authority, notwithstanding any other provisions
47 of law limiting interest or other charges or prescribing other terms
48 and conditions.

49 *H. Loans on building lots. An association may invest in any*
50 *obligation secured by a mortgage which is a first lien on a building*

51 *lot, where it is represented by the borrower at the time the loan is*
 52 *made that he intends to build or have built a dwelling on the build-*
 53 *ing lot for his own use and occupancy. The amount of such loan*
 54 *shall not exceed 80% of the value of the real estate as found by*
 55 *appraisal at the time the loan is granted and shall be a direct*
 56 *reduction loan as defined in section 5 of this act, which shall require*
 57 *periodic payments sufficient to pay the principal and interest on*
 58 *the loan in full over a period of 10 years or less.*

1 4. Section 168 of the act of which this act is amendatory
 2 (C. 17:12B-168) is amended to read as follows:

3 168. Limitation on amounts of real estate loans and investments.
 4 No State association shall loan upon the security of, nor invest in
 5 any contract for the resale of, any one property, more than
 6 \$35,000.00 or an amount equal to 2½% of its assets whichever
 7 amount is greater. The total amount owing to a State association
 8 upon all such loans and investments in excess of \$35,000.00 shall
 9 not exceed 35% of the aggregate amount owing to it on all of its
 10 mortgage loans at the time any such loan or investment in excess
 11 of \$35,000.00 is made.

12 *Notwithstanding the above limits, the commissioner may adopt,*
 13 *amend, alter or rescind regulations permitting associations to make*
 14 *loans for a greater amount or to increase the percentage limitation*
 15 *hereinabove set forth. The commissioner may give consideration*
 16 *to the size of the association, its reserves and current economic*
 17 *conditions in issuing such regulations. Any loans or investments*
 18 *legally made under the provisions of regulations adopted under*
 19 *the authority granted by this section shall be legal loans or invest-*
 20 *ments if they conform with the regulations in effect at the date*
 21 *of closing or purchase of said loan or investment, notwithstanding*
 22 *the subsequent amendments, alterations, rescissions or repeals*
 23 *of the regulations in effect at the date of such closing or purchase.*

1 5. This act shall take effect immediately.

STATEMENT

This bill makes several technical changes in the lending limitations of savings and loan associations and increases the authority given to the commissioner to permit State chartered associations to make the same type of loans and investments permitted to Federal savings and loan associations whose principal offices are in New Jersey.

STATEMENT BY GOVERNOR RICHARD J. HUGHES IN CONNECTION
WITH THE SIGNING OF SENATE BILL NO. 520

Senate Bill No. 520 makes a number of changes in the law relating to savings and loan associations which should measurably improve their flexibility during this time of monetary stringency. Among the changes it makes in the present law are the following:

(a) Mortgage construction loans may be made for a period of three years instead of the present one-year limitation;

(b) Up to 25% of the assets of a savings and loan association may be invested in assets not enumerated in the statute but authorized by regulation of the Commissioner of Banking and Insurance instead of the present 20%;

(c) Loans on undeveloped lots, when the borrower certifies that he expects to live in a home built on the lot are authorized; and

(d) Associations are authorized to make larger loans in dollar amounts, in particular, for multi-family dwellings.

This bill is a continuation of a trend in recent legislation which is liberalizing the powers of savings and loan associations. Despite the fact that we had a comprehensive review of the savings and loan law in 1963, the conditions of the housing market and stringent monetary controls have lead savings and loan associations to seek new avenues of investment and greater flexibility of operations. In addition to the branch banking law enacted last year, bills such as Senate Bill No. 520 seek to allow savings and loan associations to operate in areas other than housing.

Yet it should be remembered that the primary purpose of savings and loan associations, and their predecessor building and loan associations, was to provide a specialized instrument to promote housing construction and home ownership. This is the main feature which distinguishes them from commercial banks and mutual savings banks. Recently, however, questions have been raised as to the effectiveness of savings and loan associations in stimulating housing construction. It is certainly true that in New Jersey we

face a housing shortage which government alone cannot remedy. If we are to rely on savings and loan associations as a private enterprise stimulant to housing construction, however, we should also be sure that we are, in fact, using the most effective means available.

We clearly need a thorough review and analysis of the role of the savings and loan associations and related financial institutions in providing adequate housing for New Jersey. This conclusion is underlined by a recent study of the Federal Home Loan Bank Board undertaken by Professor Irwin Friend of the University of Pennsylvania. Among the conclusions reached by that report -- which I must stress was prepared for the Federal agency responsible for supervising savings and loan associations -- are the following:

-- A comparison of both gross and net mortgage and other interest yields during the post-war period does not indicate that the channeling of funds into housing by specialized financial institutions, such as savings and loan associations, has lowered mortgage rates below rates on most other loans of comparable risk (page 15).

-- "Some types of conflicts of interest are more important in the savings and loan industry than in business generally. These include the pervasive ancillary activities of management and other affiliated persons who may be realtors, attorneys, insurance agents, bankers, builders, and developers doing business with the association or its customers." (page 16).

-- Savings and loan associations should be given additional flexibility in the areas of consumer credit, mortgages on multi-family residences (including limited use of equity participations), longer term savings accounts, capital notes or debentures, and a limited form of checking accounts (page 20).

-- "A series of FHLB member associations in financial difficulty suggests that, while the quality of examinations was generally high, at least at the Federal level, supervisory performance in the handling of associations in difficulty was less satisfactory, and was characterized by unnecessary delays between the initial signs of difficulty and effective action." (page 33).

-- Association capital requirements for reserves should vary with the potential risk of loan portfolios and should be set at a level such that the probability of association failure is very small. Inflexible statutory formulae, often unrelated to the nature of loan portfolios, should be reviewed (page 37).

In particular, I call the attention of the Legislature to one matter of especial concern. To quote the Federal Home Loan Bank Board Report:

Management is in theory the fiduciary representative of the mutual shareholders or depositors, but in fact the latter generally function as wholly non-participatory creditors, without information or power. Regulatory policy has cooperated in the almost total elimination of the shareholder as a participant in association affairs and in the transformation of the shareholder to creditor status with an ambiguous claim on the association's residual income and net worth. Friend, Study of the Savings and Loan Industry: Summary and Recommendation, page 54 (September 1969).

The accuracy of this statement was confirmed in New Jersey by the enactment of P.L. 1969, c. 28, which authorizes savings and loan associations to convert their "shareholder accounts" to "depositor accounts". If savings and loan associations are neither responsible to member-depositors or to common stock shareholders, then we must surely ask to whom are they responsible.

These are general conclusions drawn from a nationwide study and may not be completely applicable to New Jersey. However, it appears to me that before proceeding on a piecemeal basis to supplement the powers of savings and loan associations, a joint legislative-executive committee should inquire into the adequacy of our laws relating to savings and loan associations, in particular, as related to the recommendations and findings of the Friend Report. This commission should include not only those persons connected with financial institutions, but also experts in housing and economics. The matter is far too important to leave solely in the hands of bankers.