

17:12B-48

LEGISLATIVE HISTORY CHECKLIST

NJSA 17:12B-48 (Amends "Savings and Loan Act"--Trustees under ERISA)

LAWS OF 1977 CHAPTER 69

Bill No. S994

Sponsor(s) Skevin

Date Introduced January 26, 1976

Committee: Assembly Commerce, Banking and Insurance

Senate Labor, Industry and Professions

Amended during passage ~~Yes~~ No

Date of Passage: Assembly Feb. 7, 1977

Senate March 29, 1976

Date of approval April 21, 1977

Following statements are attached if available:

Sponsor statement Yes ~~Yes~~

Committee Statement: Assembly Yes ~~Yes~~

Senate Yes ~~Yes~~

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

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SENATE, No. 994

STATE OF NEW JERSEY

INTRODUCED JANUARY 26, 1976

By Senator SKEVIN

Referred to Committee on Labor, Industry and Professions

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 48 of P. L. 1963, c. 144 (C. 17:12B-48) is amended
2 to read as follows:

3 48. Specific powers. Without limiting the generality of the fore-
4 going, every association shall have power to:

5 (1) Have succession by its corporate name for the period limited
6 in its charter or certificate of incorporation, and when no period is
7 limited, perpetually.

8 (2) Sue and be sued in any court.

9 (3) Adopt and use a corporate seal and alter the same.

10 (4) Purchase and otherwise acquire, hold, mortgage, pledge,
11 lease, exchange, sell, convey and otherwise dispose of, any real and
12 personal property, necessary or incidental to its operations and
13 consistent with its powers and purposes.

14 (5) Insure its members' accounts with the Federal Savings and
15 Loan Insurance Corporation, and comply with conditions necessary
16 to obtain and maintain such insurance.

17 (6) Become a member of or stockholder in a Federal Home Loan
18 Bank and to that end to comply with all conditions of membership
19 therein.

20 (7) Act as agent for the United States or the State of New Jersey
21 or any instrumentality of either of them, when designated for that
22 purpose, and perform such reasonable duties as such agents as may
23 be required of it.

24 (8) Join any cooperative league organized for the purpose of
25 protecting and promoting the welfare of associations and their
26 members and comply with all conditions of membership therein.

27 (9) Borrow money from any source in or out of the State, on the
28 note, bond and mortgage or other obligation of the association upon
29 such terms and conditions as the board may from time to time pre-
30 scribe by resolution adopted by at least a majority of all the
31 members of the board and duly recorded on the minutes and to
32 pledge, assign or transfer mortgages, owned by the association and
33 the obligations secured by such mortgages, together with the shares,
34 if any, pledged as collateral security therefor, or any real or other
35 personal property, as security for the repayment of money so
36 borrowed. No association shall borrow money if by doing so the
37 aggregate of its indebtedness for borrowed money other than to the
38 Federal Home Loan Bank will exceed 20% of its capital, except with
39 the approval of the commissioner.

40 (10) Take from its members, a premium for priority or privilege
41 of loan or acquisition of real estate and no premium so taken shall be
42 deemed usurious. The rate of premium may be agreed upon or be
43 determined by auction.

44 (11) Require an advance payment of interest for a period of 1
45 month on any loan; and accept advance payments of interest, if
46 made at the option of the debtor, for any period on any loan. None
47 of such payments shall be deemed usurious.

48 (12) Where shares are issued, charge an admission fee, not to
49 exceed \$0.25 per share, which shall include the cost of membership
50 or share certificate and account book.

51 (13) Impose charges upon a member for failure to make any pay-
52 ment to the association when due, but only as provided in this para-
53 graph. Where the association issues installment share accounts it
54 may impose such charge upon any member holding such an account
55 or any borrower upon a sinking fund mortgage not in excess of 1%
56 a month upon the amount in arrears, except for the first month's
57 arrearage or the amount by which such first month's arrearage may
58 be increased by subsequent arrearage in which case a charge not in
59 excess of 5% may be imposed. Such charges shall be subject to the
60 further limitations that no such charge shall be deducted from any
61 amount actually paid by a member upon an account nor shall the
62 total of any such charges against any account in any fiscal year ex-
63 ceed the amount that may be charged for failure to make any pay-
64 ments for a 6-month period nor shall any charge for default be made
65 on a charge for default. Otherwise an association may impose a
66 charge for failure to make any required payment to it when due
67 upon any loan or contract for the resale of real estate to a member
68 not to exceed 4% of the amount of each payment in arrears but no

69 more than one such charge may be made with respect to any one
70 payment in arrears. An association may impose a reasonable
71 service charge against any member who tenders to such association,
72 for collection or as payment, a check or other instrument of any type
73 which subsequently is not honored by the institution or person upon
74 which such check or other instrument is drawn. None of such
75 charges shall be deemed usurious.

76 (14) Compute interest upon any direct reduction loan, on desig-
77 nated payment dates, and add the same to the unpaid balance of
78 such loan.

79 (15) Act as agent for any person where such agency will further
80 the interests of the association and its members, subject to such
81 limitations as may be prescribed by the commissioner.

82 (16) Upon application to and approval by the commissioner, to
83 act as custodian or trustee within the contemplation of the Federal
84 Self-Employed Individuals Tax Retirement Act of 1962, as amended
85 and supplemented, *and the Employee Retirement Income Security*
86 *Act of 1974, as amended and supplemented*, and as custodian,
87 trustee or manager of any such investment fund the authorized
88 investments of which include, but need not be limited to, savings
89 accounts or real estate loans, and the beneficial interests in which
90 may be represented by transferable shares or certificates. Associa-
91 tions exercising the powers authorized by the subsection shall
92 segregate all funds held in such fiduciary capacities from the general
93 assets of the association and shall keep a separate set of books
94 and records showing in detail all transactions made under authority
95 of this subsection. If individual records are kept for each self-
96 employed individual's retirement plan and each such investment
97 fund, then all such funds held in such fiduciary capacities by an
98 association may be commingled for appropriate purposes of in-
99 vestment. No funds held in such fiduciary capacities shall be used
100 by an association in the conduct of its business; however, such
101 funds may be invested in savings accounts of the association in
102 the event that the custodial, trust or other plan does not prohibit
103 such investment. In granting or refusing the association's applica-
104 tion the commissioner shall take into consideration the investment
105 policies, amount, type and adequacy of reserves, fidelity bonds and
106 any legally required deposits of the applicant and other pertinent
107 facts and circumstances.

1 2. This act shall take effect immediately.

STATEMENT

The purpose of this proposed legislation is to amend the Savings and Loan Act to recognize provisions of the Pension Reform Act of 1974 (P. L. 93-406). Savings and loan associations have had the authority since 1968 to act as trustees, with the approval of the Commissioner of Banking, under the provisions of the Federal Self-Employed Individuals Tax Retirement Act of 1962. This bill adds to that provision a reference to the Employee Retirement Income Security Act of 1974 to recognize changes necessitated by the new Federal enactment.

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REFERENCE USE ONLY

ASSEMBLY COMMERCE, BANKING AND INSURANCE
COMMITTEE

STATEMENT TO

SENATE, No. 994

STATE OF NEW JERSEY

DATED: APRIL 23, 1976

This legislation amends the Savings and Loan Act (P. L. 1963, c. 144) to permit state chartered savings and loan associations to act as custodians or trustees under the provisions of the Federal Pension Reform Act (P. L. 93-406), which authorized individual retirement account programs for individuals not covered by a private retirement plan. Such programs generally provide that an individual may set aside as much as \$1,500.00 per annum or 15% of earned income, whichever is less, in a program which is tax sheltered until payments begin at any time during the period from age 59½ to 70½.

While this legislation clarifies New Jersey law with respect to the authority given to savings and loan associations to act as custodians or trustees for such retirement plans, present New Jersey law provides that no association may so act without the permission of the Commissioner of Banking.

REFERENCE USE ONLY

SENATE LABOR, INDUSTRY, AND
PROFESSIONS COMMITTEE

STATEMENT TO
SENATE, No. 994

STATE OF NEW JERSEY

DATED: FEBRUARY 19, 1976

The purpose of Senate Bill No. 994 is to remove any legal doubt as to the authority of New Jersey savings and loan associations to be custodians or trustees of individual retirement accounts (IRA) as Congress authorized banks to do in the 1974 Pension Reform Act. Federally chartered savings and loan associations were subsequently so authorized by Congress under the provisions of Public Law 93-406.

In 1968, State chartered savings and loan associations were authorized to act as custodians or trustees of individual retirement accounts under the Keogh Act (Self-Employed Individuals Tax Retirement Act of 1962). This bill includes in such authority the power to act as custodians under the 1974 Employee Retirement Income Security Act.

Individual retirement account programs have been authorized to aid persons not covered by an employer's retirement plan. Under this program, an individual can set aside as much as \$1,500.00 or 15% of earned income, whichever is less, without tax liability until such sums are withdrawn, presumably when one retires, and then the tax rate would normally fall within a lower income bracket.