

17: 9A-59.40

LEGISLATIVE HISTORY CHECKLIST

NJSA 17:9A-59.40 (Establishes maximum interest on passbook loans)

Laws of 1977 Chapter 64

Bill No. A1859

Sponsor(s) Van Wagner and others

Date Introduced April 8, 1976

Committee: Assembly Commerce, Banking & Insurance

Senate Labor, Industry & Professions

Amended during passage Yes No Amendments during passage denoted by asterisks

Date of passage: Assembly Nov. 9, 1976

Senate Feb. 1, 1977

Date of approval April 18, 1977

Following statements are attached if available:

Sponsor statement Yes No
Committee Statement: Assembly Yes No
Senate Yes No
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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ASSEMBLY, No. 1859

STATE OF NEW JERSEY

INTRODUCED APRIL 8, 1976

By Assemblymen VAN WAGNER, FLYNN, BORNHEIMER,
RAND, D. GALLO and DORSEY

Referred to Committee on Commerce, Banking and Insurance

AN ACT concerning ***[investments by savings banks]*** **certain loans made by banking institutions** and supplementing ***[Article 25 of]*** "The Banking Act of 1948" (P. L. 1948, c. 67).

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

1 1. Notwithstanding any other provision of law, a ***[savings**
2 **bank]*** **banking institution** may contract with a depositor for the
3 loan of money in an amount not to exceed such ***[person's]***
4 **depositor's** deposit and secured by a pledge of such reposit, upon
5 such terms and conditions as may be mutually agreed upon between
6 the ***[savings bank]*** **banking institution** and such depositor:
7 provided, however, that the rate of interest charged with respect to
8 any such loan shall not exceed the maximum permitted under the
9 provisions of R. S. 31:1-1 or 2% in excess of the interest rate then
10 paid with respect to the deposit which secures such loan whichever
11 is greater.

1 2. This act shall take effect immediately.

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

ASSEMBLY, No. 1859

STATE OF NEW JERSEY

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By Assemblymen VAN WAGNER, FLYNN, BORNHEIMER,
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Referred to Committee on Commerce, Banking and Insurance

AN ACT concerning investments by savings banks and supplementing Article 25 of "The Banking Act of 1948" (P. L. 1948, c. 67).

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

1 1. Notwithstanding any other provision of law, a savings bank
2 may contract with a depositor for the loan of money in an amount
3 not to exceed such person's deposit and secured by a pledge of such
4 deposit, upon such terms and conditions as may be mutually agreed
5 upon between the savings bank and such depositor; provided, how-
6 ever, that the rate of interest charged with respect to any such
7 loan shall not exceed the maximum permitted under the provisions
8 of R. S. 31:1-1 or 2% in excess of the interest rate then paid with
9 respect to the deposit which secures such loan whichever is
10 greater.

1 2. This act shall take effect immediately.

STATEMENT

Federal Deposit Insurance Corporation regulations require that a bank charge 2% more on a passbook loan which it makes to its depositors than is paid in interest with respect to such loan. In some cases the rate could exceed existing usury laws, for example when a deposit is earning interest at 7½% and the usury ceiling is set at 8%. This bill is designed to allow a savings bank to comply with the Federal Deposit Insurance Corporation regulations when making loans to its depositors secured by a high interest bearing deposit.

REFERENCE USE ONLY

ASSEMBLY COMMERCE, BANKING AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1859

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 12, 1976

This bill provides that a banking institution may contract with a depositor for loans secured by a deposit upon such terms as may be agreed on between the savings bank and such depositor; provided that the rate of interest charged on such loan does not exceed the maximum permitted under the provisions of R. S. 31:1 or 2% in excess of the interest rate then paid by the banks on the deposit which secures such loan, whichever is greater. The bill would permit banking institutions to charge interest on account loans at a rate which would exceed the present New Jersey usury ceiling of 8% which is established by R. S. 31:1 et seq.

The Federal Deposit Insurance Corporation regulations formerly required institutions to charge interest on these loans at a rate which was 2% higher than the interest which the institution was paying on the deposit. However, because this regulation frequently caused institutions to run afoul of State usury limitations, the F.D.I.C. changed its regulations (12 CFR 329.4(n)) to prohibit an institution from paying interest on the deposit at a rate which resulted in a differential of less than 2% between the interest paid on the deposit and the interest charged on the loan. Practically speaking, this regulation meant that an institution was required to lower the amount of interest it was paying on the deposit for the period of the loan. This regulation only applies to loans which are being made at an institution which also holds the customer's deposit. If a customer uses the deposit to secure a loan at another bank, the 2% differential is not required. In the past, institutions have faced problems when a large certificate of deposit or other large deposit, for example, has been used to secure a loan of a lesser amount than the deposit. In cases like these, the interest rate paid on the deposit has to be dropped for a portion of the deposit, a factor which causes bookkeeping problems. Similar problems are encountered as a depositor pays back a loan, which means that full interest may be paid on a progressively larger portion of the deposit.

FROM THE OFFICE OF THE GOVERNOR

APRIL 18, 1977

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

ANNE BURNS

Governor Brendan Byrne Monday signed A-1859, sponsored by Assemblyman Richard Van Wagner (D-Monmouth), which prescribes the maximum interest rate a banking institution may charge on a pass book loan.

The bill will allow banking institutions, including savings banks, to charge 2% more than the established interest rate paid on a time deposit account when that account is to be used as security for a loan. This rate will be permitted even though the rate may exceed the provisions of the State interest and usury law.

Under the old law loans had to be made within the limitations of the existing interest and usury ceiling. This was done by reducing the rate paid on the account to be used as security to a level which would allow the 2% differential and yet keep the rate below the usury ceiling.

According to the Department of Banking, this procedure was difficult to administer and confusing to the borrower. By allowing the 2% differential even though it exceeds the usury ceiling, the effect will be the same to the borrower and the lender and will eliminate the manipulations needed to accommodate the present law.

For example, under the old law, the borrower paid 8% rate on his loan, but was only paid 6% on his time account, during the term of his loan. The borrower's net cost was 2% and the lender received a return of 2%.

Under the bill, the borrower will continue to receive the established rate of interest on his account rather than a reduced rate. His cost will still remain at 2% and the lender will still receive a return of 2%.