

17: 9A-344.1 et al

6/3/86

LEGISLATIVE HISTORY CHECKLIST

NJSA: 17:9A-344.1 et al (Bank holding companies--aggregate deposits during acquisitions--increases amount)

LAWS OF: 1986 CHAPTER: 4

BILL NO: S1466

Sponsor(s): Lesniak

Date Introduced: January 21, 1986

Committee: Assembly: -----

Senate: Labor, Industry and Professions

Amended during passage: No Substituted for A1810 (not attached since identical to A1810)

Date of Passage: Assembly: March 13, 1986

Senate: March 10, 1986

Date of Approval: March 24, 1986

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: Yes

974.90 New Jersey. Legislature. Senate. Labor, Industry and Professions
B218 Committee. Public hearing, held 1-30-86 and 2-10-86,
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See newspaper clipping file in, New Jersey Reference Department under "NJ-Banking-1985" and "NJ-Banking-1986".

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SENATE, No. 1466

STATE OF NEW JERSEY

INTRODUCED JANUARY 21, 1986

By Senator LESNIAK

Referred to Committee on Labor, Industry and Professions

AN ACT concerning limitations upon ownership of bank stocks, amending P. L. 1981, c. 484, amending and supplementing P. L. 1957, c. 70, and repealing sections 4, 5, 7, 8, 9 and 10 of P. L. 1957, c. 70.

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

- 1 1. (New section) The Legislature finds and declares that:
2 a. The limitation on aggregate average deposits held by banks,
3 other than savings banks transacting business in this State, was
4 established 17 years ago when the banking industry was signifi-
5 cantly different;
6 b. The advent of regional banking in various areas of the nation,
7 and the likelihood of coast-to-coast interstate banking requires
8 the reassessment of the current percentage limitations on aggregate
9 average deposits to which this 1986 amendatory and supplementary
10 act addresses itself;
11 c. The percentage limitations on aggregate deposits established
12 by this 1986 amendatory and supplementary act shall be in effect
13 for three and one-half years after the effective date of this 1986
14 amendatory and supplementary act;
15 d. The potential for a continually changing banking industry
16 requires that this new current percentage limitation on aggregate
17 average deposits be reexamined by the Legislature within three
18 and one-half years of the effective date of this 1986 amendatory and
19 supplementary act to ensure that the banking institutions in the
20 State may grow in a limited, well-regulated manner, consistent
21 with the best interests of the personal and business citizens of

EXPLANATION—Matter enclosed in bold-faced brackets [like] in the above bill
is not enacted and is intended to be omitted in the law.
Matter printed in italics also is new matter.

22 the State of New Jersey; and

23 e. The Legislature shall reestablish a reasonable percentage
24 limitation on aggregate average deposits within three and one-
25 half years after the effective date of this 1986 amendatory and
26 supplementary act.

1 2. Section 1 of P. L. 1957, c. 70 (C. 17:9A-344) is amended to
2 read as follows:

3 1. As used in this act,

4 (a) "Bank" means an institution organized under the laws of
5 the United States, a state of the United States, the District of
6 Columbia, or a territory or possession of the United States, which
7 does business in the United States that is not incidental to the
8 institution's activities outside the United States and which (1)
9 accepts deposits that the depositor has a legal right to withdraw
10 on demand and (2) engages in the business of making commercial
11 loans except that "bank" does not include an organization oper-
12 ating under section 25 or section 25(a) of the "Federal Reserve
13 Act," 38 Stat. 251 (12 U. S. C. §§ 601-604(a)) or 41 Stat. 378, (12
14 U. S. C. § 611 et seq.) or a federal or State chartered savings
15 and loan association. A "bank located outside of this State"
16 means a bank which has its principal, head or main office outside
17 of this State. A "bank located in this State" means a bank which
18 has its principal, head or main office in this State;

19 (b) "Company" means a corporation, joint stock company,
20 business trust, investment trust, general or limited partnership,
21 voting trust, association, and any similar organized group of
22 persons, whether incorporated or not, and whether or not orga-
23 nized under the laws of this State or any other state or any territory
24 or possession of the United States or under the laws of a foreign
25 country, territory, colony or possession thereof, other than a
26 corporation all the capital of which is owned by the United States;
27 "company" includes subsidiary and parent companies;

28 (c) "Stock" means a security issued by a bank or corporation
29 which presently entitles the holder thereof to vote at meetings
30 of shareholders of the bank or corporation for the election of
31 directors, but does not include a security which entitles the holder
32 thereof to vote for the election of directors only as a result of
33 the failure to pay a dividend or to fulfill an obligation or satisfy
34 a condition specified by the terms of the security;

35 (d) "Bank stock" means stock issued by a bank;

36 (e) "Subsidiary" of a company means (1) a corporation more
37 than 50% of whose stock is owned by such company, and (2) an

38 unincorporated company in which such company directly or in-
39 directly owns more than a 50% share or interest;

40 (f) "Parent company" means a company of which another com-
41 pany is a subsidiary;

42 (g) "Own," "owner," "owned" and "ownership," when applied
43 to stock, mean direct and indirect ownership of such stock, and
44 includes stock not owned, but directly controlled with power to
45 vote;

46 (h) "Foreign bank" means an institution organized under the
47 laws of a foreign country which engages in the business of bank-
48 ing, is recognized as a banking entity by the bank supervisory or
49 monetary authority of the country of its organization or principal
50 banking operations, receives deposits to a substantial extent in
51 the regular course of business and has the power to accept de-
52 posits which the depositor has a legal right to withdraw on demand;

53 (i) "Foreign bank holding company" means a company organ-
54 ized under the laws of a foreign country, which has one or more
55 subsidiaries which are foreign banks and which has more than
56 half of its consolidated assets, located, or consolidated revenues
57 derived, outside of the United States. As used in this subsection,
58 "revenues" means gross income and "consolidated" means con-
59 solidated in accordance with generally accepted accounting prin-
60 ciples in the United States;

61 (j) "Bank holding company located in this State" means a bank
62 holding company subject to the "Bank Holding Company Act of
63 1956," 70 Stat. 133 (12 U. S. C. § 1841 et seq.), which is either orga-
64 nized under the laws of this State or the operations of whose bank-
65 ing subsidiaries are principally conducted in this State within the
66 meaning of the "Bank Holding Company Act of 1956;"

67 (k) "Foreign country" means the government of a country
68 other than the United States or its territories or possessions[.];

69 (l) "Depository institution" means a banking institution as
70 defined in subsection (2) section 1 of P. L. 1948, c. 67 (C. 17:9A-1),
71 or a State or federally chartered savings and loan association or
72 a federally chartered savings bank with its principal office in this
73 State; provided, however, that if a savings and loan association
74 or savings bank regardless of where it is chartered or where its
75 principal office is located (other than in this State) accepts de-
76 posits at offices in this State which are insured by the Federal
77 Savings and Loan Insurance Corporation or the Federal Deposit
78 Insurance Corporation or any successor to either thereof, that
79 savings and loan association or savings bank shall be deemed to

80 *be a depository institution solely for the purpose under section 2*
 81 *of P. L. 1957, c. 70 (C. 17:9A-345) of having the deposits of its*
 82 *offices located in this State included in the aggregate average*
 83 *deposits of depository institutions in the State.*

1 3. Section 2 of P. L. 1957, c. 70 (C. 17:9A-345) is amended to
 2 read as follows:

3 2. Except as otherwise provided by [section s] section 3 [and 4]
 4 of this act,

5 (a) No company or person which owns more than 25% of the
 6 stock of any bank located [inside] in this State or savings bank
 7 located in this State shall acquire ownership of more than 10% of
 8 the stock of another bank located [inside] in this State or savings
 9 bank located in this State or assume the deposit liabilities of
 10-11 another bank located in this State or savings bank located in
 12 this State in a manner which requires the approval of a federal
 13 regulatory authority pursuant to subsection (c) of section 18 of
 14 the "Federal Deposit Insurance Act," 64 Stat. 891 (12 U. S. C.
 15 1828(c)), or subsection (d) (11) and subsection (o) (2) (p) of sec-
 16 tion 5 of the "Home Owner's Loan Act of 1933," 48 Stat. 132
 17 (12 U. S. C. 1464(d)) if, at the time of [such acquisition] that trans-
 18 action, or if, as a result of [such acquisition] that transaction, the
 19 company or person owns, or would own, more than 10% of the stock
 20 of [each of two or more banks] one or more banks located [inside]
 21 in this State or savings banks located in this State, whose aggre-
 22 gate average deposits exceed [20%] 12% for the first year follow-
 23 ing enactment of this 1986 amendatory and supplementary act,
 24 13% for the second year following enactment of this 1986 amenda-
 25 tory and supplementary act, and 13.5% for the third year and for
 26 the first one half of the fourth year following enactment of this
 27 1986 amendatory and supplementary act of the aggregate average
 28 deposits of all [banks other than savings banks transacting busi-
 29 ness in this State] depository institutions as of the two call dates
 30 for which published figures are available next preceding [such
 31 acquisition] that transaction; and

32 (b) No company or person which owns more than 25% of the
 33 stock of either a bank located outside of this State or a foreign
 34 bank shall own or acquire ownership of more than 5% of the stock
 35 of a bank located in this State.

36 (c) Acquisition of ownership of more than a stated percentage
 37 of the stock of a bank shall include any acquisition of one or more
 38 shares after which the company or person owns more than the
 39 stated percentage.

40 In applying this section to a company, all bank stock owned by
41 a subsidiary of such company and by the parent company of such
42 company, shall be deemed to be owned by such company.

43 *(d) Nothing in this section shall prevent a company or person*
44 *from acquiring the stock of a bank or assuming the deposit liabil-*
45 *ities of a bank if the commissioner determines that the bank is in*
46 *an unsound or unsafe condition as determined by an evaluation of*
47 *the bank's capital adequacy, asset quality, management, earnings*
48 *or liquidity. The commissioner may rely upon a written evalua-*
49 *tion of a bank's safety and soundness prepared by a federal or*
50 *other state bank regulatory agency.*

1 4. Section 3 of P. L. 1981, c. 484 (C. 17:9A-345a) is amended
2 to read as follows:

3 3. A company or person which owns the stock of a bank holding
4 company located in this State shall not be deemed to own any
5 stock of a bank subsidiary of the bank holding company unless the
6 company or person controls the bank holding company, in which
7 event the company or person shall be deemed to own the same pro-
8 portional share of stock of each bank subsidiary as the amount of
9 stock which it owns of the bank holding company bears to the
10 total outstanding stock of the bank holding company. As used in
11 this section "controls" means the direct or indirect power to vote
12 25% or more of all shares of stock entitled to vote in the election
13 of directors or the power to control the election of a majority of
14 the directors.

1 5. (New section) Upon a finding by the commissioner, after
2 notice and an opportunity for a hearing, of a violation by a com-
3 pany or person of any provision of section 2 of P. L. 1957, c. 70
4 (C. 17:9A-345), or any regulation or order of the commissioner
5 issued pursuant to section 6 of P. L. 1981, c. 484, the commissioner
6 may order the company or person to cease any violation and to di-
7 vest itself or himself of ownership of sufficient shares of stock of a
8 bank located in this State to eliminate the violation, or to pay a
9 civil penalty not to exceed \$1,000.00 per day for each day that the
10 violation shall continue, or both, the penalty being recoverable in
11 a summary proceeding under "the penalty enforcement law," N. J.
12 S. 2A:58-1 et seq.

1 6. Section 6 of P. L. 1957, c. 70 (C. 17:9A-349) is amended to
2 read as follows:

3 6. A company or person which owns bank stock or assumes
4 deposit liabilities of a bank contrary to the provisions of this act
5 shall nevertheless be empowered to transfer such stock or divest

6 of such deposit liabilities at any time in the same manner and with
7 the same effect as if its acquisition of such stock or assumption of
8 such liabilities had been lawful.

1 7. (New section) The Commissioner of Banking shall monitor
2 the effect of this 1986 amendatory and supplementary act and
3 shall report to each member of the Legislature and the appropriate
4 committees responsible for banking legislation at the end of two
5 and one-half years after the effective date of this 1986 amendatory
6 and supplementary act, whether or not the percentage limitation
7 on aggregate average deposits of depository institutions in effect
8 at that time should be adjusted.

9 In making this recommendation, the commissioner shall consider:
10 (a) whether the citizens and businesses of this State are provided
11 with adequate banking services and a substantial degree of com-
12 petition exists among the providers of such services; (b) the
13 effect of this legislation on the safety and soundness of the banking
14 industry in this State; and (c) such other factors as the com-
15 missioner may deem appropriate in protecting the public interest.

16 In making this recommendation, the commissioner shall also
17 consider whether savings banks or savings and loan associations,
18 or both, should be subject to the limitations of section 2 of P. L.
19 1957, c. 70 (C. 17:9A-345).

1 8. (New section) Following the receipt of the report of the
2 Commissioner of Banking as set forth in section 7 of this 1986
3 amendatory and supplementary act, but within three and one-half
4 years of the effective date of this 1986 amendatory and supple-
5 mentary act, the Legislature shall reestablish a reasonable per-
6 centage limitation on aggregate average deposits of all depository
7 institutions in accordance with those principles that are in the
8 best interests of the personal and business citizens of the State
9 of New Jersey.

1 9. (New section) The percentage limitation on aggregate aver-
2 age deposits of all depository institutions set forth in section 2
3 of P. L. 1957, c. 70 (C. 17:9A-345), as amended by this 1986
4 amendatory and supplementary act, shall terminate on the day
5 next following three and one-half years after the effective date
6 of this 1986 amendatory and supplementary act, if the Legislature
7 has not acted in accordance with section 8 of this 1986 amendatory
8 and supplementary act.

1 10. Sections 4, 5, 7, 8, 9, and 10 of P. L. 1957, c. 70 (C. 17:9A-347,
2 C. 17:9A-348, C. 17:9A-350 through C. 17:9A-353) are repealed.

1 11. This act shall take effect immediately.

STATEMENT

This bill amends New Jersey's bank holding company law (C. 17:9A-344 et seq.) with regard to the limitations that provide a bank holding company from acquiring an in-state bank which would result in a company holding more than 20% of the aggregate average deposits of all commercial banks Statewide. The bill would provide that such acquisitions can take place if the aggregate average deposits of the banks owned by a bank holding company do not exceed a specified percentage of the aggregate deposits of depository institutions in the State. Depository institutions include all state or federally chartered commercial banks, savings banks and savings and loan associations with their principal office in this State, and savings banks and savings and loan associations with their principal offices not in this State but which have deposit-taking offices in this State. Aggregate deposits of all depository institutions are defined to include all of the deposits of all offices (wherever located) of depository institutions with their principal offices in New Jersey and the deposits of the New Jersey offices of savings banks and savings and loan associations with their principal offices outside of the State if such New Jersey offices accept deposits insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. The percentage limitation changes twice over a three and one-half period, starting initially at 12% for the first year following enactment of the act, 13% for the second year following enactment and 13.5% for the third year and the first half of the fourth year following the effective date of this act. The bill also includes an emergency over-ride of the limitation in situations involving troubled institutions.

The bill repeals section 4 of P. L. 1957, c. 70 (C. 17:9A-347) which had provided an exception to the 20% cap for institutions that were acquired by merger. The bill also repeals sections 5, 7, 8, 9 and 10 of P. L. 1957, c. 70 (C. 17:9A-348 and C. 17:9A-350 through C. 17:9A-353), which has provided criminal sanctions, and instead provides for civil enforcement procedures and penalties.

The bill contains a sunset provision which requires the Commissioner of Banking to report to the Legislature two and one-half years from the effective date of this act. The Legislature will be required to reexamine the percentage limitation on aggregate average deposits of depository institutions in accordance with the recommendations made by the Commissioner of Banking within three and one-half years of the effective date of this act. If the

Legislature does not act within that period, the percentage limitation in effect at that time will terminate.

Banking and Financial Institutions

Raises bank hold Co. deposit caps.

Raises the amount of aggregate deposits any bank holding company may control during acquisitions.

STATEMENT

This bill amends New Jersey's bank holding company law (C. 17:9A-344 et seq.) with regard to the limitations that provide a bank holding company from acquiring an in-state bank which would result in a company holding more than 20% of the aggregate average deposits of all commercial banks Statewide. The bill would provide that such acquisitions can take place if the aggregate average deposits of the banks owned by a bank holding company do not exceed a specified percentage of the aggregate deposits of depository institutions in the State. Depository institutions include all state or federally chartered commercial banks, savings banks and savings and loan associations with their principal office in this State, and savings banks and savings and loan associations with their principal offices not in this State but which have deposit-taking offices in this State. Aggregate deposits of all depository institutions are defined to include all of the deposits of all offices (wherever located) of depository institutions with their principal offices in New Jersey and the deposits of the New Jersey offices of savings banks and savings and loan associations with their principal offices outside of the State if such New Jersey offices accept deposits insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. The percentage limitation changes twice over a three and one-half period, starting initially at 12% for the first year following enactment of the act, 13% for the second year following enactment and 13.5% for the third year and the first half of the fourth year following the effective date of this act. The bill also includes an emergency over-ride of the limitation in situations involving troubled institutions.

The bill repeals section 4 of P. L. 1957, c. 70 (C. 17:9A-347) which had provided an exception to the 20% cap for institutions that were acquired by merger. The bill also repeals sections 5, 7, 8, 9 and 10 of P. L. 1957, c. 70 (C. 17:9A-348 and C. 17:9A-350 through C. 17:9A-353), which has provided criminal sanctions, and instead provides for civil enforcement procedures and penalties.

The bill contains a sunset provision which requires the Commissioner of Banking to report to the Legislature two and one-half years from the effective date of this act. The Legislature will be required to reexamine the percentage limitation on aggregate average deposits of depository institutions in accordance with the recommendations made by the Commissioner of Banking within three and one-half years of the effective date of this act. If the

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Legislature does not act within that period, the percentage limitation in effect at that time will terminate.

Banking and Financial Institutions

Raises bank hold Co. deposit caps.

Raises the amount of aggregate deposits any bank holding company may control during acquisitions.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

SENATE, No. 1466

STATE OF NEW JERSEY

DATED: MARCH 6, 1986

At present, P. L. 1948, c. 67 (C. 17:9A-1 et seq.), referred to as the "Banking Act of 1948" provides that no company which owns more than 25% of the stock of a bank in this State may acquire ownership of more than 10% of the stock of another bank if, at the time of the acquisition or as a result of the acquisition, the aggregate average deposits of the banks held or to be held by the company exceed or would exceed 20% of the aggregate average deposits of all banks in this State. This bill would amend that provision of law to provide that no company or person which owns more than 25% of the stock of a bank or savings bank in this State may acquire ownership of more than 10% of the stock of another bank or savings bank in this State or assume the deposit liabilities of another bank or savings bank in this State requiring federal regulatory approval if, at the time of that transaction or as a result of that transaction, the aggregate average deposits of the banks or savings banks held or to be held exceed or would exceed 12% of the aggregate average deposits of all depository institutions during the first year after the effective date of this bill, 13% of those deposits during the second year after the effective date of this bill, and 13.5% of those deposits during the third year and the first half of the fourth year after the effective date of this bill. Depository institutions include State or federally chartered banks, savings banks and savings and loan associations. However, the limitations established by this section of law may be overridden in situations involving the acquisition of or assumption of the deposit liabilities of a State or federally chartered bank or savings bank which is in unsound or unsafe condition.

The Commissioner of Banking is required to monitor the effects of this change in the cap limitation on the aggregate average deposits that any company or person may control, and report to the Legislature at the end of two and one-half years after the effective date of this bill whether or not the cap should be adjusted. If the Legislature does not adjust the cap limitation to a reasonable percentage within three and one-half years of the effective date of this bill, the cap limitation will expire.

The bill repeals section 4 of P. L. 1957, c. 70, (C. 17:9A-347), which presently exempts from the 20% cap any institution which is acquired through a merger. The bill also repeals sections 5, 7, 8, 9 and 10 of P. L. 1957, c. 70, (C. 17:9A-348, C. 17:9A-350 through C. 17:9A-353), which include criminal sanctions for violations of the act and replaces these sanctions with a civil penalty section providing that the Commissioner of Banking may order the company or person to cease any violation of the act and to divest itself or himself of ownership of sufficient shares of stock of a bank or savings bank to eliminate the violation or to pay a civil penalty not to exceed \$1,000.00 per day that the violation continues, or both.
