

# ASSEMBLY, No. 3176

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED SEPTEMBER 13, 2004

**Sponsored by:**

**Assemblyman JOSEPH CRYAN**

**District 20 (Union)**

**Assemblyman JOSEPH R. MALONE, III**

**District 30 (Burlington, Mercer, Monmouth and Ocean)**

**SYNOPSIS**

Establishes an assessment funding mechanism for the support of Division of Banking and imposes certain additional fees and reports.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT establishing an assessment funding mechanism for the support  
2 of the Division of Banking in the Department of Banking and  
3 Insurance, imposing certain additional fees and amending and  
4 supplementing various parts of the statutory law.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 1. (New section) a. The Legislature finds and declares that:

10 (1) The Division of Banking has a statutory obligation to protect  
11 the interests of New Jersey's consumers and to regulate and oversee  
12 the operations of the financial industry it charters, licenses and  
13 registers.

14 (2) In order to maintain an adequate level of oversight and  
15 supervision, and to perform its regulatory responsibilities, it is  
16 necessary to establish an assessment funding mechanism for the  
17 division's special needs.

18 (3) A banking assessment funding source is a clear indication of the  
19 commitment that the State of New Jersey has made to the special  
20 needs of the Division of Banking relative to its administrative activities  
21 with regard to the financial regulation, supervision and monitoring of  
22 the depository institutions and other financial entities it charters,  
23 licenses and registers.

24 (4) A dedicated funding mechanism for the Division of Banking is  
25 in the public interest.

26 b. The Legislature therefore intends for the actual incurred  
27 expenses of the Division of Banking for all services related to the  
28 division's financial regulation, supervision and monitoring of  
29 depository institutions and other financial entities it charters, licenses  
30 and registers to be assessed among these depository institutions,  
31 licensees and registrants.

32

33 2. (New section) For the purposes of this act:

34 "Assessment" means the assessment imposed pursuant to section 3  
35 of this act for the special functions of the division as provided in that  
36 section.

37 "Commissioner" means the Commissioner of Banking and  
38 Insurance.

39 "Department" means the Department of Banking and Insurance.

40 "Depository institution" means any entity holding a state charter for  
41 a bank, savings bank, savings and loan association or credit union,  
42 irrespective of whether the entity accepts deposits.

43 "Division" means the Division of Banking in the Department of

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

**Matter underlined thus is new matter.**

1 Banking and Insurance.

2 "Other financial entity" means a person who is licensed or  
3 registered pursuant to: the "New Jersey Licensed Lenders Act,"  
4 P.L.1996, c.157 (C.17:11C-1 et seq.); "The Check Cashers Regulatory  
5 Act of 1993," P.L.1993, c.383 (C.17:15A-30 et seq.); the "New Jersey  
6 Money Transmitters Act," P.L.1998, c.14 (C.17:15C-1 et seq.); the  
7 "Insurance Premium Finance Company Act," P.L.1968, c.221  
8 (C.17:16D-1 et seq.); the "Retail Installment Sales Act of 1960,"  
9 P.L.1960, c.40 (C.17:16C-1 et seq.); the "Door-to-Door Retail  
10 Installment Sales Act of 1968," P.L.1968, c.223 (C.17:16C-61.1 et  
11 seq.); the "Home Repair Financing Act," P.L.1960, c.41 (C.17:16C-93  
12 et seq.); the "Door-to-Door Home Repair Sales Act of 1968,"  
13 P.L.1968, c.224 (C.17:16C-95 et seq.); P.L.1979, c.16 (C.17:16G-1  
14 et seq.); or the "pawnbroking law," R.S.45:22-1 et seq.

15 "Regulated entity" means a depository institution, other financial  
16 entity or person chartered, licensed or registered by the Division of  
17 Banking or who should be chartered, licensed or registered.

18

19 3. (New section) a. The Director of the Division of Budget and  
20 Accounting in the Department of the Treasury shall, on or before  
21 August 15 in each year, ascertain and certify to the commissioner by  
22 category the total amount of expenses incurred by the State in  
23 connection with the administration of the special functions of the  
24 Division of Banking in the Department of Banking and Insurance  
25 relative to the financial regulation, supervision and monitoring of  
26 depository institutions and other financial entities it licenses during the  
27 preceding fiscal year. Those expenses shall include, in addition to the  
28 direct cost of personal service, the cost of maintenance and operation,  
29 the cost of employee benefits and the workers' compensation paid for  
30 and on account of personnel, rentals for space occupied in  
31 State-owned or State-leased buildings and all other direct and indirect  
32 costs of the administration of those functions of the department, as  
33 well as any amounts remaining uncollected from the assessment of the  
34 previous fiscal year. Certification made pursuant to this subsection  
35 shall be made by the Director of the Division of Budget and  
36 Accounting.

37 b. (1) Upon receipt of the certification made by the Director of the  
38 Division of Budget and Accounting pursuant to subsection a. of this  
39 section, but no later than September 1 in each year following the close  
40 of the previous fiscal year, the commissioner shall issue, in accordance  
41 with the provisions of this section, the assessment for the amount of  
42 the expenses incurred by, or on behalf of, the department for those  
43 special purposes recognized in this act.

44 (2) Assessments made pursuant to this section shall be distributed  
45 among all regulated entities in accordance with regulations  
46 promulgated by the commissioner pursuant to the "Administrative

1 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

2 c. The commissioner shall certify the amount of the assessment  
3 issued to each regulated entity. Each regulated entity shall remit the  
4 amount so certified and assessed to it to the department in accordance  
5 with the procedures established in this act. Amounts collected by the  
6 department shall be used for reimbursement to the State for expenses  
7 incurred in connection with the special functions of the division  
8 relative to the financial regulation, supervision and monitoring of  
9 depository institutions and other financial entities it charters, licenses  
10 or registers, provided that the amount collected for those expenses  
11 shall not exceed the amount appropriated by the Legislature for those  
12 expenses.

13

14 4. (New section) Within 15 days after the date of mailing a  
15 statement of the assessment as provided in this act, a regulated entity  
16 may file its objections to its assessment with the commissioner. Upon  
17 receiving those objections, the commissioner shall either: amend the  
18 statement as warranted, consistent with sections 5 and 6 of this act; or  
19 schedule and send a notice of a hearing on the objections, which  
20 hearing shall be held not less than 30 nor more than 60 days after the  
21 date of the notice.

22

23 5. (New section) If upon receiving the objections, or after the  
24 hearing, the commissioner finds any part of the assessment against the  
25 objecting regulated entity excessive, erroneous, unlawful or invalid, he  
26 shall transmit to the objector, by registered mail, his findings and an  
27 amended statement of the assessment in accordance with those  
28 findings, which shall have the same force and effect as an original  
29 statement of the assessment. If the commissioner finds the entire  
30 statement of the assessment unlawful or invalid, he shall notify the  
31 objector, by registered mail, of that determination, and the original  
32 statement of the assessment shall be null and void. If the  
33 commissioner finds that the statement as rendered is neither excessive,  
34 erroneous, unlawful or invalid, in whole or in part, he shall transmit  
35 notice thereof to the objector by registered mail.

36

37 6. (New section) If a statement of the assessment against which  
38 objections are filed is not paid in full within 30 days after the date of  
39 mailing to the objector of notice of a finding that the objections have  
40 been disallowed; or if an amended statement of the assessment is not  
41 paid within 30 days of the date a copy thereof is mailed by registered  
42 mail to the objector, the commissioner shall give notice of the  
43 delinquency to the State Treasurer and to the objector, and the State  
44 Treasurer shall proceed to make the collection.

45

46 7. (New section) No action for recovery of an amount paid under

1 this act shall be maintained in any court unless objections have been  
2 filed with the commissioner. In an action for recovery of any  
3 payments, plaintiff may raise any relevant issue of law, but the  
4 commissioner's findings of fact shall be presumptive evidence of the  
5 facts therein stated.

6  
7 8. (New section) No action or proceeding shall be maintained in  
8 any court for the purpose of restraining or delaying the collection or  
9 payment of a statement of the assessment rendered in accordance with  
10 the provisions of this act. A regulated entity against which a statement  
11 of the assessment is rendered shall pay the amount thereof, and after  
12 the payment may, in the manner provided by this act at any time within  
13 two years from the date of the payment, bring an action at law against  
14 the State to recover the amount paid, with legal interest thereon from  
15 the date of payment, upon the ground that the assessment was  
16 excessive, erroneous, unlawful or invalid, in whole or in part.

17  
18 9. (New section) The procedure provided in this act for  
19 determining the lawfulness of statements of the assessment and the  
20 recovery of payments made pursuant to those statements of the  
21 assessment shall be exclusive of all other remedies and procedures.

22  
23 10. (New section) If any regulated entity to which a statement of  
24 the assessment as provided in this act has been mailed fails or refuses  
25 to pay the amount within 30 days, or fails to file with the  
26 commissioner objections to the statement of the assessment as  
27 provided in this act, the commissioner shall transmit to the State  
28 Treasurer a certified copy of both the statement of the assessment and  
29 the notice of the neglect or refusal of the regulated entity to pay the  
30 amount thereof, and at the same time shall mail by registered mail to  
31 the entity a copy of the items transmitted to the State Treasurer.

32  
33 11. (New section) Within 10 days after receipt of the notice and  
34 certified copy of the statement of the assessment, the State Treasurer  
35 shall proceed to collect the amount stated to be due, with legal  
36 interest, by seizure and sale of any goods or chattels, including stocks,  
37 securities, bank accounts, surety bonds, realty, evidences of debt and  
38 accounts receivable belonging to the regulated entity anywhere within  
39 the State. The State Treasurer shall not seize any goods or chattels  
40 held by the regulated entity on behalf of another.

41  
42 12. (New section) As an additional remedy, the State Treasurer  
43 may issue a certificate to the Clerk of the Superior Court, that a  
44 regulated entity is indebted under this act in an amount stated in the  
45 certificate. The clerk shall immediately enter upon his record of  
46 docketed judgments the name of the regulated entity, and of the State,

1 the amount of debt so certified, and the date of the entry. The entry  
2 shall have the same force and effect as the entry of a docketed  
3 judgment in the office of the clerk, and the State Treasurer shall have  
4 all the remedies and may take all of the proceedings for the collection  
5 thereof which may be had or taken upon the recovery of a judgment  
6 in an action, but without prejudice to the regulated entity's right of  
7 appeal.

8

9 13. (New section) a. Notwithstanding any law or regulation to the  
10 contrary, a regulated entity paying the amounts assessed to it in  
11 statements of the assessment made pursuant to section 3 of this act  
12 shall be exempt from all fees or charges imposed by the division  
13 pursuant to any other provision of law or regulation, except for:

14 (1) charter fees;

15 (2) application fees for licenses;

16 (3) mortgage solicitor registration application fees;

17 (4) fees for entry by a foreign depository institution whether from  
18 another state of the United States or from another country into New  
19 Jersey for branch, trust or other activities;

20 (5) fees charged under the "Governmental Unit Deposit Protection  
21 Act," P.L.1970, c.236 (C.17:9-41 et seq.);

22 (6) fees charged any entity not chartered, licensed or registered by  
23 this State, including but not limited to activities conducted by foreign  
24 banks pursuant to section 316 of P.L.1948, c.47 (C.17:9A-316) or  
25 foreign associations pursuant to section 214 of P.L.1963, c.144  
26 (C.17:12B-214); and

27 (7) fees charged qualified corporations authorized pursuant to  
28 section 213 of P.L.1948, c.67 (C.17:9A-213) to perform either  
29 registrar and transfer agent activities or activities permitted for  
30 qualified educational institutions.

31 b. Nothing in this section shall exempt a regulated entity from  
32 paying any fine or penalty imposed by the commissioner for a violation  
33 of a statute or regulation.

34 c. Except as provided in paragraph (1) of subsection d. of section  
35 7 of the "New Jersey Home Ownership Security Act of 2002,"  
36 P.L.2003, c.64 (C.46:10B-28), all fees, charges, fines and penalties as  
37 described in subsections a. and b. of this subsection shall be remitted  
38 to the State Treasurer for deposit into the General Fund, and those  
39 fees, charges, fines and penalties shall not be part of the assessment  
40 funding mechanism or considered in the calculation pursuant to section  
41 15 of this act.

42

43 14. (New section) a. The State Treasurer and the commissioner  
44 may adopt rules and regulations, pursuant to the "Administrative  
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate  
46 the purposes of this act.

1       b. Any regulation promulgated by the commissioner shall describe  
2 the factors to be considered in computing the assessment. In the case  
3 of depository institutions, the assessment shall consider the following  
4 factors as appropriate: assets, deposits or shares, trust funds under  
5 management and the supervisory rating of the institution. In the case  
6 of licensees or registrants, the assessment shall consider the following  
7 factors as appropriate: loan volume, volume of money transmitted,  
8 number of transactions, volume of checks cashed, number of licensee  
9 branches, number of authorities held under the "New Jersey Licensed  
10 Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.) and the  
11 supervisory rating of the entity. In computing the assessment for  
12 depository institutions, licensees or registrants, the commissioner may  
13 consider those additional factors the commissioner deems appropriate.

14       c. The general purpose of the computations to determine the  
15 assessment shall be to distribute the financial burden proportionally  
16 among the depository institutions and other financial entities it  
17 charters, licenses and registers consistent with the division's regulatory  
18 activities.

19       d. The commissioner shall provide for the orderly and fair  
20 transition to assessments on existing charters, licensees and registrants  
21 by promulgating rules and regulations and by establishing  
22 administrative procedures that are reasonable, necessary and consistent  
23 with this act.

24

25       15. (New section) a. The total amount assessable to regulated  
26 entities in any fiscal year for the assessment established by this act  
27 shall not exceed the lesser of:

28       (1) the total amount of expenses incurred by the State in  
29 connection with the administration of the special functions of the  
30 division pursuant to section 3 of this act during the preceding fiscal  
31 year as ascertained by the Director of the Division of Budget and  
32 Accounting in the Department of the Treasury, on or before August 15  
33 in each year, and certified to the commissioner by category;

34       (2) .00015 times the sum of (a) the total assets for State-chartered  
35 banks, savings banks, and savings and loan associations for the  
36 preceding calendar year plus (b) the total loan volume for residential  
37 mortgage loans closed by licensed lenders pursuant to the "New Jersey  
38 Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.); or

39       (3) mortgage solicitor registration application fees.

40       b. In calculating the assessments:

41       (1) Banks, savings banks and savings and loan associations shall be  
42 given prorated credit for unused portions of assessment periods; and

43       (2) Licensees shall be given prorated credit for unused portions of  
44 licensing periods.

45       c. The department shall not issue an examination bill for an  
46 examination that has not been completed by the date that the regulated

1 entity becomes subject to the assessment pursuant to the provisions of  
2 this act. For the purposes of this act, the completion of the  
3 examination shall not include the time to process and review the  
4 examination report.

5  
6 16. (New section) a. A depository institution that submits figures  
7 on assets, deposits or any other factor used by the department to  
8 compute the depository institution's assessment that are substantially  
9 or materially in error shall be liable for an administrative penalty not  
10 to exceed \$10,000 for each submission that contains incorrect  
11 information.

12 b. A licensee that submits figures on loan volume, number of  
13 branches, or any other factor used by the department to compute the  
14 licensee's assessment that are substantially or materially in error shall  
15 be liable for an administrative penalty not to exceed \$10,000 for each  
16 submission that contains incorrect information.

17 c. In addition to any monetary penalty that may be imposed against  
18 a licensee pursuant to subsection b. of this section, the commissioner  
19 may take action to revoke, suspend or refuse to renew the license of  
20 a licensee that submits substantially or materially erroneous figures in  
21 violation of the provisions of this act. The suspension, revocation or  
22 refusal to renew a license shall be in addition to any monetary penalty  
23 imposed pursuant to subsection b. of this section.

24 d. The administrative penalty authorized pursuant to this section  
25 may be recovered in a summary proceeding in accordance with the  
26 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et  
27 seq.). A willful violation of this section shall be considered a crime of  
28 the third degree.

29  
30 17. Section 8 of P.L.1996, c.157 (C.17:11C-8 ) is amended to read  
31 as follows:

32 8. a. Every application for an initial license shall be accompanied  
33 by an application fee [of not more than \$500, as established by the  
34 commissioner by regulation] as set forth in subsection d. of this  
35 section. When the applicant at the same time seeks a license to engage  
36 in more than one activity, only one application fee may be charged.  
37 [The] With respect to a license fee imposed prior to the  
38 implementation of the assessment pursuant to P.L. c. (C. ) (now  
39 before the Legislature as this bill), the license fee, as prescribed by the  
40 commissioner by regulation, shall be based on the number of the  
41 following activities in which the person is licensed to engage under this  
42 act or the "Retail Installment Sales Act of 1960," P.L.1960, c.40  
43 (C.17:16C-1 et seq.): a mortgage banker or mortgage broker; a  
44 secondary lender; a consumer lender; or a sales finance company. The  
45 fee for a biennial license or a renewal thereof shall be set according to  
46 the following schedule:

1 (1) If the person is licensed to engage in one activity, the fee shall  
2 not be more than \$3,000;

3 (2) If the person is licensed to engage in two activities, the fee shall  
4 not be more than \$4,000;

5 (3) If the person is licensed to engage in three activities, the fee  
6 shall not be more than \$5,000; and

7 (4) If the person is licensed to engage in all four activities, the fee  
8 shall not be more than \$6,000.

9 Upon implementation of the assessment pursuant to P.L. , c.  
10 (C. )(now before the Legislature as this bill), a license fee shall no  
11 longer be imposed or collected by the commissioner pursuant to this  
12 section.

13 b. When the initial license is issued in the second year of the  
14 biennial licensing period, the license fee shall equal one-half of the  
15 license fee for the biennial period set forth above. In lieu of, or in  
16 addition to, the fees set forth above, the department may impose other  
17 fees and charges as provided by regulation.

18 c. An applicant for a mortgage solicitor registration pursuant to  
19 subsection c. of section 3 of P.L.1996, c.157 (C.17:11C-3) shall be  
20 subject to a mortgage solicitor registration application fee, not to  
21 exceed \$100 as established by the commissioner by regulation. A  
22 solicitor who changes his registration to a different licensee shall be  
23 required to submit a new registration application and to pay an  
24 application fee.

25 d. An applicant shall pay to the commissioner at the time of the  
26 initial application for a license an application fee not to exceed the  
27 amounts specified in this subsection:

28 (1) For an application for one activity, an application fee not to  
29 exceed \$700;

30 (2) For an application for two activities, an application fee not to  
31 exceed \$1,000;

32 (3) For an application for three activities, an application fee not to  
33 exceed \$1,300; and

34 (4) For an application for four activities, an application fee not to  
35 exceed \$1,600.

36 e. A licensee that seeks to add an additional activity to an existing  
37 license shall pay a fee not to exceed \$300 per activity.

38 f. Fee amounts shall be prescribed by the commissioner by  
39 regulation.

40 (cf: P.L.1996, c.157, s.8)

41  
42 18. Section 8 of P.L.1960, c.40 (C.17:16C-8) is amended to read  
43 as follows:

44 8. [Every] With respect to a license fee imposed prior to the  
45 implementation of the assessment pursuant to P.L. , c. (C. )(now  
46 before the Legislature as this bill), every motor vehicle installment

1 seller shall pay to the commissioner at the time of making the  
2 application and biennially thereafter upon renewal a license fee for its  
3 principal office and for each additional place of business conducted in  
4 this State. The commissioner shall charge for a license such fee as he  
5 shall prescribe by rule or regulation. Each fee shall not exceed  
6 \$300.00. The license shall run from the date of issuance to the end of  
7 the biennial period. When the initial license is issued in the second  
8 year of the biennial licensing period, the fee shall be an amount equal  
9 to one-half of the license fee for the biennial licensing period. Upon  
10 implementation of the assessment pursuant to P.L. , c. (C. )(now  
11 before the Legislature as this bill), a license fee shall no longer be  
12 imposed or collected by the commissioner pursuant to this section,  
13 however a motor vehicle installment seller shall pay to the  
14 commissioner at the time of application an application fee not to  
15 exceed \$300.00.

16 (cf: P.L.1981, c.321, s.2)

17

18 19. Section 18 of P.L.1960, c.40 (C.17:16C-18) is amended to  
19 read as follows:

20 18. Every retail seller, sales finance company, motor vehicle  
21 installment seller and holder shall maintain at its place or places of  
22 business in this State such books, accounts and records relating to all  
23 transactions within this act as will enable the commissioner to enforce  
24 full compliance with the provisions of this act.

25 (cf: P.L.1960, c.40, s.18)

26

27 20. Section 19 of P.L.1960, c.40 (C.17:16C-19) is amended to  
28 read as follows:

29 19. All books, accounts and records of the licensee shall be  
30 preserved and kept available as provided herein for such period of time  
31 as the commissioner may by regulation require. The commissioner  
32 may require a licensee to file an annual report containing that  
33 information required by the commissioner by regulation concerning  
34 business conducted as a licensee in the preceding calendar year. The  
35 report shall be submitted under oath and in the form specified by the  
36 commissioner by regulation.

37 (cf: P.L.1960, c.40, s.19)

38

39 21. Section 21 of P.L.1960, c.41(C.17:16C-82) is amended to read  
40 as follows:

41 21. (a) **[Every]** With respect to a license fee imposed prior to the  
42 implementation of the assessment pursuant to P.L. , c. (C. )(now  
43 before the Legislature as this bill, every home financing agency shall  
44 pay to the commissioner at the time of making the application and  
45 biennially thereafter upon renewal a license fee for its principal place  
46 of business and for each additional place of business conducted in this

1 State. The commissioner shall charge for a license such fee as he shall  
2 prescribe by rule or regulation. Each fee shall not exceed \$600.00.  
3 The license shall run from the date of issuance to the end of the  
4 biennial period. When the initial license is issued in the second year of  
5 the biennial licensing period, the license fee shall be an amount equal  
6 to one-half of the fee for the biennial licensing period. Upon  
7 implementation of the assessment pursuant to P.L. , c. (C. )(now  
8 before the Legislature as this bill), a license fee shall no longer be  
9 imposed or collected by the commissioner pursuant to this section,  
10 however a home financing agency shall pay to the commissioner at the  
11 time of application an application fee not to exceed \$600.00.

12 (b) **[Every]** With respect to a license fee imposed prior to the  
13 implementation of the assessment pursuant to P.L. , c. (C. )(now  
14 before the Legislature as this bill, every home repair contractor shall  
15 pay to the commissioner at the time of making the application and  
16 biennially thereafter upon renewal a license fee for its principal place  
17 of business and for each additional place of business conducted in this  
18 State. The commissioner shall charge for a license such fee as he shall  
19 prescribe by rule or regulation. Each fee shall not exceed \$300.00.  
20 The license shall run from the date of issuance to the end of the  
21 biennial period. When the initial license is issued in the second year of  
22 the biennial licensing period, the license fee shall be an amount equal  
23 to one-half of the fee for the biennial licensing period. Upon  
24 implementation of the assessment pursuant to P.L. , c. (C. )(now  
25 before the Legislature as this bill), a license fee shall no longer be  
26 imposed or collected by the commissioner pursuant to this section,  
27 however a home repair contractor shall pay to the commissioner at the  
28 time of application an application fee not to exceed \$300.00.

29 (c) **[Every]** With respect to a license fee imposed prior to the  
30 implementation of the assessment pursuant to P.L. , c. (C. )(now  
31 before the Legislature as this bill, every home repair salesman shall pay  
32 to the [commission] commissioner at the time of making the  
33 application and biennially thereafter upon renewal a license fee. The  
34 commissioner shall charge for a license such fee as he shall prescribe  
35 by rule or regulation, not to exceed \$60.00. The license shall run from  
36 the date of issuance to the end of the biennial period. When the initial  
37 license is issued in the second year of the biennial licensing period, the  
38 license fee shall be an amount equal to one-half of the fee for the  
39 biennial licensing period. Upon implementation of the assessment  
40 pursuant to P.L. , c. (C. )(now before the Legislature as this  
41 bill), a license fee shall no longer be imposed or collected by the  
42 commissioner pursuant to this section, however a home repair  
43 salesman shall pay to the commissioner at the time of application an  
44 application fee not to exceed \$60.00.

45 (cf: P.L.1981, c.321, s.3)

1       22. Section 26 of P.L.1960, c. 41 (C.17:16C-87) is amended to  
2 read as follows:

3       26. a. Every home repair contractor, home financing agency and  
4 holder of a home repair contract shall maintain at its place or places of  
5 business such books, accounts and records relating to all transactions  
6 under this act as will enable the commissioner to enforce full  
7 compliance with the provisions hereof. All such books, accounts and  
8 records shall be preserved and kept available for such period of time  
9 as the commissioner may by regulation require. The commissioner  
10 may prescribe the minimum information to be shown in such books,  
11 accounts and records of the licensee so that such records will enable  
12 the commissioner to determine compliance with the provisions of this  
13 act.

14       b. The commissioner may require a licensee to file an annual report  
15 containing that information required by the commissioner by regulation  
16 concerning business conducted as a licensee in the preceding calendar  
17 year. The report shall be submitted under oath and in the form  
18 specified by the commissioner by regulation.

19 (cf: P.L.1960, c.41, s.26)

20

21       23. Section 4 of P.L.1968, c.221 (C.17:16D-4) is amended to read  
22 as follows:

23       4. Licenses. No person shall engage in the business of financing  
24 insurance premiums in this State without first having obtained a license  
25 as a premium finance company from the Commissioner of Banking and  
26 Insurance, except that any State or national bank authorized to do  
27 business in this State shall be authorized to transact business as a  
28 premium finance company, subject to all of the provisions of this act,  
29 except that it shall not be required to obtain a license or pay a license  
30 fee hereunder. Any person who shall engage in the business of  
31 financing insurance premiums in this State without a valid license as  
32 provided hereunder shall, upon conviction as provided in R.S. 17:33-2,  
33 be subject to a fine of not more than \$300.00. [The] With respect to  
34 a license fee imposed prior to the implementation of the assessment  
35 pursuant to P.L. , c. (C. )(now before the Legislature as this  
36 bill), the commissioner shall charge for a license such fee as he shall  
37 prescribe by rule or regulation, not to exceed \$1,000.00. Upon  
38 implementation of the assessment pursuant to P.L. , c. (C. )(now  
39 before the Legislature as this bill), a license fee shall no longer be  
40 imposed or collected by the commissioner pursuant to this section,  
41 however an insurance premium finance agency shall pay to the  
42 commissioner at the time of application an application fee not to  
43 exceed \$1,000.00. The license shall run from the date of issuance to  
44 the end of the biennial period. [When] With respect to a license fee  
45 imposed prior to implementation of the assessment pursuant to P.L.  
46 , c. (C. )(now before the Legislature as this bill), when the initial

1 license is issued in the second year of the biennial licensing period, the  
2 license fee shall be an amount equal to one-half of the fee for the  
3 biennial licensing period.

4 Licenses may be renewed from year to year as of January 1 of each  
5 year upon payment of the fee established by the commissioner with  
6 respect to a license fee imposed prior to implementation of the  
7 assessment pursuant to P.L. , c. (C. )(now before the Legislature  
8 as this bill). The fee imposed prior to implementation of the  
9 assessment pursuant to P.L. , c. (C. )(now before the Legislature  
10 as this bill), for said license shall be paid to the commissioner for the  
11 use of the State. No portion of the license fee imposed prior to  
12 implementation of the assessment pursuant to P.L. , c. (C. )(now  
13 before the Legislature as this bill), shall be refunded if the license is  
14 surrendered by the licensee or suspended or revoked by the  
15 commissioner.

16 Before any licensee changes his address he shall return his license  
17 to the commissioner who shall indorse the license indicating the  
18 change.

19 The person to whom the license or the renewal thereof may be  
20 issued shall file sworn answers, subject to the penalties of perjury, to  
21 such interrogatories as the commissioner may require. The  
22 commissioner shall have authority, at any time, to require the applicant  
23 fully to disclose the identity of all stockholders, partners, officers and  
24 employees, and he may, in his discretion, refuse to issue or renew a  
25 license in the name of any firm, partnership, or corporation if he is not  
26 satisfied that any officer, employee, stockholder, or partner thereof  
27 who may materially influence the applicant's conduct meets the  
28 standards of this act.

29 (cf: P.L.1981, c.321, s.4)

30

31 24. Section 5 of P.L.1979, c.16 (C.17:16G-5) is amended to read  
32 as follows:

33 5. a. Any social service agency or consumer credit counseling  
34 agency licensed under this act shall be bonded to the satisfaction of the  
35 commissioner and shall have its financial records relating to debt  
36 adjustment audited annually by a certified public accountant or a  
37 **[registered]** public accountant, which audit shall be filed with the  
38 commissioner. Such an audit shall certify that the salaries and  
39 expenses paid by the licensee are reasonable compared to those  
40 incurred by comparable organizations providing similar services. After  
41 reviewing the annual audit, the Commissioner of Banking and  
42 Insurance may cause an examination of the social service agency or  
43 consumer credit counseling agency to be made, the actual expenses of  
44 such an examination shall be paid by the social service agency or  
45 consumer credit counseling agency; and the commissioner may  
46 maintain any action against any such agency to recover the fees and

1 expenses herein provided for.

2 b. The commissioner may require a licensee to file an annual report  
3 containing that information required by the commissioner by regulation  
4 concerning activities conducted as a licensee in the preceding calendar  
5 year. The report shall be submitted under oath and in the form  
6 specified by the commissioner by regulation.

7 c. The commissioner may require a high cost home loan counselor  
8 to file an annual report containing that information required by the  
9 commissioner by regulation concerning activities conducted pursuant  
10 to subsection g. of section 5 of P.L.2003, c.64 (C.46:10B-26) as a  
11 registrant in the preceding calendar year. The report shall be  
12 submitted under oath and in the form specified by the commissioner by  
13 regulation.

14 (cf: P.L.1979, c.16, s.5)

15

16 25. Sections 3 and 14 of this act shall take effect immediately, and  
17 the remainder of this act shall take effect upon the adoption of  
18 regulations pursuant to sections 3 and 14 of this act and the  
19 commissioner may take those anticipatory actions necessary to  
20 effectuate the provisions of this act.

21

22

23

#### STATEMENT

24

25 This bill establishes a dedicated assessment funding mechanism for  
26 the special needs of the Division of Banking in the Department of  
27 Banking and Insurance associated with the financial regulation,  
28 supervision and monitoring of the depository institutions and other  
29 financial entities that it charters and licenses and individuals that it  
30 licenses and registers. The Division of Banking has a statutory  
31 obligation to protect the interests of New Jersey's consumers and to  
32 regulate and oversee the operations of these financial entities.

33 Under the provisions of this bill, the actual incurred expenses of the  
34 Division of Banking for all services related to the division's financial  
35 regulation, supervision and monitoring of the depository institutions  
36 and other financial entities it charters, licenses and registers will be  
37 assessed among those entities.

38 The bill authorizes the State Treasurer to collect unpaid  
39 assessments and provides a process whereby the regulated entity may  
40 file objections to the assessment. After paying the assessment, a  
41 regulated entity may dispute the assessment amount in a court action  
42 against the State. The bill caps the total amount that a regulated entity  
43 may be assessed in any fiscal year. Depository institutions and  
44 regulated entities that submit assessment data that is substantially in  
45 error are liable for administrative penalties under the provisions of the  
46 bill.

1       The bill also establishes license application fees for certain regulated  
2 entities that currently do not pay such a fee and provides for the  
3 eventual elimination of annual license renewal fees for those entities.  
4 Under the bill application fees are established for the following  
5 regulated entities: motor vehicle installment sellers; home financing  
6 agencies; home repair contractors; home repair salesmen; and  
7 insurance premium finance companies.

8       In addition, the bill permits the Commissioner of Banking and  
9 Insurance to require the submission of annual reports from certain  
10 regulated entities that previously had not been under such a  
11 requirement. The bill provides that the commissioner may require a  
12 licensee to file an annual report containing that information required  
13 by the commissioner by regulation concerning business conducted as  
14 a licensee in the preceding calendar year. The report shall be  
15 submitted under oath and in the form specified by the commissioner by  
16 regulation. As provided in the bill, those regulated entities which may  
17 be required to file an annual report include: motor vehicle installment  
18 sellers; home financing agencies; home repair contractors; home repair  
19 salesmen; and social service agencies, consumer credit counseling  
20 agencies and high cost home loan counselors that provide debt  
21 counseling services to consumers.