

ASSEMBLY, No. 1829

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1996

By Assemblymen BATEMAN, AUGUSTINE and Zecker

1 AN ACT concerning banking and revising parts of the statutory law.

2

3 **BE IT ENACTED** by the Senate and General Assembly of the State
4 of New Jersey:

5

6 1. (New section) The Legislature finds and declares that banks and
7 certain other financial institutions are subject to certain laws and
8 regulations which duplicate or conflict with applicable federal laws and
9 regulations, or which are otherwise currently unnecessary and
10 overburdensome, all of which increase the cost of banking services to
11 New Jersey depositors and borrowers and which deter banking
12 institutions from locating in this State.

13

14 2. Section 5 of P.L.1985, c.81 (C.17:3B-8) is amended to read as
15 follows:

16 5. Periodic percentage rates. If the agreement governing the
17 revolving credit plan [so] provides[,]that the periodic percentage rates
18 of interest under the plan may increase or decrease, the increase or
19 decrease shall take place only in correspondence with the movement
20 of the market interest rate index specified in the revolving credit plan
21 agreement, which index shall be readily verifiable by the borrower and
22 beyond the control of the lender. Periodic percentage rate increases,
23 based on a rise in the interest rate index, may be made at the option of
24 the lender. Periodic percentage rate decreases shall be made whenever
25 there is a decrease in the interest rate index which results in an interest
26 rate which is less than the interest rate then applicable to the note or
27 loan, except that the revolving credit plan agreement may stipulate a
28 percentage decrease in the interest rate index below which a
29 corresponding decrease in the periodic percentage rate need not be
30 made by the lender, provided that the index decrement shall be the
31 same as the index increment used for interest rate increases. Interest
32 rate increases may, and interest rate decreases shall, apply to all
33 outstanding unpaid indebtedness under the plan on or after the

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 effective date of the rate variation, as provided in the plan agreement.
2 (cf: P.L.1985, c.81, s.5)

3

4 3. Section 9 of P.L.1985, c.81 (C.17:3B-12) is amended to read as
5 follows:

6 9. Loans under a revolving credit plan. [A] If the agreement
7 governing the revolving credit plan so provides, a lender may:

8 a. Take personal or real property, or both, as security on a loan
9 made under a revolving credit plan;

10 b. Require that any property securing the loan be insured for the
11 benefit of the lender against loss or damage of the security, and retain
12 out of the proceeds of the loan the premium for the insurance;

13 c. Require that all taxes, assessments and other governmental
14 charges against [personal] property securing the loan be paid when
15 due and that the security be maintained free of all executions, levies,
16 encumbrances, and other charges which may adversely affect the value
17 of the lender's interest in the security;

18 d. Charge and collect fees and charges, in addition to interest and
19 fees and charges specifically permitted by P.L.1985, c.81 (C.17:3B-4
20 et seq.), in amounts as provided in the agreement or as established in
21 the manner the agreement provides, such as, but not limited to,
22 minimum charges, annual fees, check charges, maintenance charges,
23 and late charges, except as may be specifically limited by P.L.1985,
24 c.81 (C.17:3B-4 et seq.);

25 f. On a secured loan, charge and collect the actual costs of filing or
26 recording the instrument of security, or notice or abstract thereof, if
27 the filing or recording is authorized by law.

28 (cf: P.L.1985, c.81, s.9)

29

30 4. Section 10 of P.L.1985, c.81 (C.17:3B-13) is amended to read
31 as follows:

32 10. Revolving credit plan prohibitions. No revolving credit plan
33 agreement shall contain:

34 a. An acceleration clause under which any part or all of the
35 balance, not yet matured, may be declared immediately due and
36 payable because the lender deems himself to be insecure, which
37 provision shall be void and unenforceable;

38 b. A provision whereby the borrower waives any right of action or
39 defense against the lender or other person acting on his behalf for any
40 illegal act committed in the collection of the payments under the
41 revolving credit plan, which provision shall be void and unenforceable;
42 and

43 c. A power of attorney to confess judgment or any other power of
44 attorney, which provision shall be void and unenforceable [; and] .

45 d. [A requirement that the credit be secured by real property.]

1 (Deleted by amendment, P.L. , c. .)

2 (cf: P.L.1985, c.81, s.10)

3

4 5. Section 12 of P.L.1985, c.81 (C.17:3B-15) is amended to read
5 as follows:

6 12. Changes in terms. a. A lender may, if the agreement governing
7 a revolving credit plan so provides, at any time amend the terms of the
8 agreement with respect to the periodic percentage rates used to
9 calculate interest, the method of computing the outstanding unpaid
10 indebtedness to which those rates are applied, and the terms of the
11 installment repayment schedule, subject to the limitations of subsection
12 b. of this section.

13 b. The lender shall notify each affected borrower of any amendment
14 pursuant to subsection a. by mailing or delivering to the borrower, at
15 least ~~[30]~~ 15 days before the effective date of the amendment, a clear
16 and conspicuous written notice which shall describe the amendment
17 and the existing terms of the agreement affected by the amendment and
18 shall also set forth the effective date of the amendment and the
19 pertinent information contemplated by the following provisions of this
20 section. If the amendment has the effect of increasing the interest or
21 other charges to be paid by the borrower by changing the method of
22 calculating interest or the index used to calculate the interest, the
23 amendment shall become effective only if the borrower uses the plan
24 after a date specified in the notice which is at least ~~[30]~~ 15 days after
25 the giving of the notice, but which need not be the date the amendment
26 becomes effective, by making a purchase or obtaining a loan, or if the
27 borrower indicates to the lender in writing the borrower's express
28 agreement to the amendment, and the amendment may become
29 effective as to a particular borrower as of the first day of the billing
30 period during which the borrower so used the borrower's account or
31 so indicated agreement to the amendment. Any borrower who fails to
32 use the borrower's account or so to indicate agreement to an
33 amendment shall be permitted to pay the outstanding unpaid
34 indebtedness in the borrower's account under the plan in accordance
35 with the terms of the agreement governing the plan without giving
36 effect to the amendment.

37 For purposes of this section a variation in periodic percentage rates
38 of interest in accordance with the terms of the index established in the
39 revolving credit plan agreement~~[and notice provided pursuant to~~
40 ~~section 25]~~ shall not be considered to be an amendment.

41 (cf: P.L.1985, c.81, s.12)

42

43 6. Section 15 of P.L.1985, c.81 (C.17:3B-18) is amended to read
44 as follows:

45 15. Periodic percentage rates. The periodic percentage rates of
46 interest charged and collected with respect to a loan under a closed

1 end credit agreement may, subject to any limitations set forth in the
2 loan agreement, vary in accordance with the market interest rate index
3 specified in the loan agreement, which index shall be readily verifiable
4 by the borrower and beyond the control of the lender. Periodic
5 percentage rate increases, based on a rise in the interest rate index,
6 may be made at the option of the lender. Periodic percentage rate
7 decreases shall be made whenever there is a decrease in the interest
8 rate index which results in an interest rate which is less than the
9 interest rate then applicable to the note or loan, except that the loan
10 agreement may stipulate a percentage decrease below which a
11 corresponding decrease in the periodic percentage rate need not be
12 made by the lender, provided the index decrement shall be the same as
13 the index increment used for interest rate increases. Interest rate
14 increases may, and interest rate decreases shall, apply to any
15 outstanding and unpaid loan balances on or after the effective date of
16 the rate variation. Upon an increase in the rate of interest, the term of
17 the note shall be extended as necessary to provide for payment of the
18 balance due without any increase in the amount of each of the
19 borrower's periodic payments, except that the periodic payments may
20 be increased, if either a. [the borrower, at his option within 20 days of
21 the date of the notice provided by the lender pursuant to section 25,
22 specifically requests the lender, in writing, to increase each periodic
23 payment or the final payment, rather than extend the term] the
24 agreement so provides or the parties agree to the increase in writing,
25 or b. if the periodic payment amounts would not be sufficient to
26 reduce the principal amount due, the lender, no sooner than 30 days
27 after notifying the borrower of that fact [pursuant to section 25], may
28 require that the periodic payments be increased, or that there be a
29 combination of an extended term and increased periodic payments.
30 (P.L.1985, c.81, s.15)

31

32 7. Section 16 of P.L.1985, c.81 (C.17:3B-19) is amended to read
33 as follows:

34 16. Additional charges. If the closed end loan agreement on a
35 secured loan so provides, a lender may [, on a secured loan, charge]:

36 a. Charge and collect the actual costs of filing or recording the
37 instrument of security, or notice or abstract thereof, if the filing or
38 recording is authorized by law.

39 b. Charge and collect fees and charges, in addition to interest and
40 fees and charges specifically permitted by P.L.1985, c.81 (C.17:3B-4
41 et seq.), in amounts as provided in the agreement or as established in
42 the manner the agreement provides, such as, but not limited to,
43 minimum charges, check charges and maintenance charges, and late
44 charges except as may be specifically limited by P.L.1985, c.81
45 (C.17:3B-4 et seq.)

46 (cf: P.L.1985, c.81, s.16)

1 8. Section 18 of P.L.1985, c.81 (C.17:3B-21) is amended to read
2 as follows:

3 18. Insurance. A lender under a closed or open end credit
4 agreement may:

5 a. Subject to the terms of the loan agreement, require any property
6 securing the loan to be insured for the benefit of the lender against loss
7 or damage of the security;

8 b. Offer credit life insurance or credit accident and health
9 insurance, or both, on the borrower in accordance with the provisions
10 of chapter 29 of Title 17B of the New Jersey Statutes.

11 A lender may deduct and retain from the proceeds of the loan the
12 amount of the premium for any insurance provided by the lender to the
13 borrower pursuant to this section.

14 (cf: P.L.1985, c.81, s.18).

15

16 9. Section 1 of P.L.1966, c.79 (C.17:9A-18.1) is amended to read
17 as follows:

18 1. Except with the written consent of the commissioner, no person
19 [who has been convicted, or who is hereafter convicted of any crime
20 involving dishonesty or a breach of trust,] shall [thereafter] serve as
21 an officer, director or employee of a bank [or] a savings bank[;
22 provided, however, the pendency of an appeal from said conviction
23 shall stay the operation of the prohibition until the appeal is decided
24 or dismissed] or bank holding company if (a) that person is convicted
25 of any crime involving dishonesty or breach of trust, or (b) that person
26 is prohibited from serving or continuing to serve in such capacity
27 pursuant to 12 U.S.C. §1829.

28 (cf: P.L.1966, c.79, s.1)

29

30 10. Section 110 of P.L.1948, c.67 (C.17:9A-110) is amended to
31 read as follows:

32 110. Directors; other committees. The by-laws of a bank may
33 provide for other committees of the board of directors in addition to
34 the committees elsewhere in this act authorized. Not less than a
35 majority of the members of any such other committee shall be
36 directors. Any or all of the remaining members of any such other
37 committee may be directors or may be officers of the bank who are
38 not directors. [No such other committee shall be empowered to do
39 any act for the bank without the approval of such act by the board of
40 directors.] Each committee shall have the authority to take any action
41 on behalf of the board that may be delegated to the committee in the
42 by-laws or by resolution of the board.

43 (cf: P.L.1952, c.56, s.1)

44

45 11. Section 3 of P.L.1990, c.69 (C.17:16F-17) is amended to read
46 as follows:

1 3. If the servicing of a mortgage loan for which a mortgage escrow
2 account has been established is sold, assigned or transferred to a
3 purchasing servicing organization:

4 a. [The selling servicing organization shall notify the mortgagor
5 of the sale, assignment or transfer not more than 45 days after the
6 actual date of the sale, assignment or transfer or not less than 10 days
7 prior to the date the next payment of property taxes is due, whichever
8 is earlier. The notification shall contain the name, address and
9 telephone number of the purchasing servicing organization and any
10 special instructions for the handling of payments during the conversion
11 period.](Deleted by amendment, P.L. , c. .)

12 b. The selling servicing organization shall notify the tax collector
13 of the taxing district in which the mortgaged property is located of the
14 sale, assignment or transfer not more than 45 days after the actual date
15 of the sale, assignment or transfer or not less than 10 days before the
16 date the next payment of property taxes is due, whichever is earlier.
17 The notification provided to the tax collector shall be on a form
18 approved by the commissioner. The selling servicing organization shall
19 also forward to the purchasing servicing organization the tax bill and
20 stubs for the property securing the mortgage loan.

21 c. [The purchasing servicing organization shall issue corrected
22 coupon or payment books, if such are used, not later than 20 days
23 after the first mortgage escrow payment to the purchasing servicing
24 organization is due and shall provide the mortgagor with the name,
25 address and telephone number of the purchasing servicing organization
26 and information regarding the purchasing servicing organization's
27 procedures for responding to questions from a mortgagor.](Deleted by
28 amendment, P.L. , c. .)

29 d. The purchasing servicing organization shall notify the tax
30 collector of the taxing district in which the mortgaged property is
31 located of the sale, assignment or transfer of the servicing of the
32 mortgage loan not later than 45 days after the actual date of the sale,
33 assignment or transfer or not less than 10 days prior to the date the
34 next payment of property taxes is due, whichever is earlier. This
35 notice shall include the purchasing servicing organization's procedure
36 for responding to questions regarding a mortgage escrow account it
37 manages.

38 e. A mortgagee or servicing organization which has been
39 authorized to receive the original tax bill from the tax collector of the
40 taxing district in which the mortgagor's property is located pursuant
41 to R.S.54:4-64, may request the tax collector to send the original tax
42 bill to its property tax processing organization. This request shall be
43 made in writing on a form approved by the commissioner.

44 For the purposes of this section, "the date the next payment of
45 property taxes is due" means either the first day of February, May,
46 August or November, as applicable, and shall not include any grace

1 period.

2 For the purposes of this section, the terms, "purchasing servicing
3 organization" and "selling servicing organization" shall not include the
4 Government National Mortgage Association, the Federal National
5 Mortgage Association, the Federal Home Loan Mortgage Corporation,
6 the Resolution Trust Corporation, or the Federal Deposit Insurance
7 Corporation, if the assignment, sale, or transfer of the servicing of the
8 mortgage loan is preceded by:

9 (1) Termination of the contract for servicing the loan for cause;

10 (2) Commencement of proceedings for bankruptcy of the servicer;

11 or

12 (3) Commencement of proceedings by the Federal Deposit
13 Insurance Corporation or the Resolution Trust Corporation for
14 conservatorship or receivership of the servicer, or an entity by which
15 the servicer is owned or controlled.

16 (cf: P.L.1990, c.69, s.3)

17

18 12. Section 1 of P.L.1985, c.370 (C.17:16L-1) is amended to read
19 as follows:

20 1. As used in this act:

21 a. "Banking institution" means any State or federally chartered
22 bank, savings bank, or savings and loan association, including a
23 federally chartered savings bank;

24 b. "Commissioner" means the Commissioner of Banking;

25 c. "Deposit account" means an account in a banking institution
26 used by the account holder for personal or family purposes, but does
27 not include an account as defined in the federal "Expedited Funds
28 Availability Act," 12 U.S.C. §4001 et seq., which account is subject to
29 the disclosure of funds availability policy requirements as set forth in
30 12 U.S.C. §4004.

31 (cf: P.L.1985, c.370, s.1)

32

33 13. Section 3 of P.L.1991, c.210 (C.17:16N-3) is amended to
34 read as follows:

35 3. a. Every depository institution that maintains regular checking
36 accounts in this State shall make available to consumers a New Jersey
37 Consumer Checking Account at all offices of that depository
38 institution where regular checking accounts are offered or available.
39 A New Jersey Consumer Checking Account shall be used primarily for
40 personal, family, or household purposes. No depository institution
41 shall be required to offer a New Jersey Consumer Checking Account
42 at a cost which is below its actual cost to provide such an account.
43 The calculation made by a depository institution of the actual cost of
44 providing a New Jersey Consumer Checking Account shall be
45 determinative in the absence of mathematical error or a request from
46 the commissioner for other data and information deemed relevant or

1 appropriate for evaluating the actual cost of providing a New Jersey
2 Consumer Checking Account. New Jersey Consumer Checking
3 Accounts shall contain the features specified in subsection c. of this
4 section or be an account the features and terms of which have been
5 approved by the commissioner pursuant to subsection d. of this
6 section.

7 b. An applicant for a New Jersey Consumer Checking Account
8 shall provide the depository institution with the same information an
9 applicant for a regular checking account is required to provide at that
10 depository institution.

11 c. The commissioner shall establish by regulation pursuant to the
12 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
13 seq.), all of the following features of a New Jersey Consumer
14 Checking Account which may be stated in terms of a range of options
15 rather than a specific number:

16 (1) the initial deposit amount, if any, necessary to open a New
17 Jersey Consumer Checking Account;

18 (2) the maximum amount, if any, permitted to be required by a
19 depository institution as a minimum balance necessary to maintain the
20 account;

21 (3) the number of checks, if any, that may be used within a periodic
22 cycle without charge to withdraw funds from the account;

23 (4) the number of other withdrawals, if any, that may be made by
24 a method other than check within a periodic cycle without charge;

25 (5) a maximum amount, if any, that may be charged per periodic
26 cycle for maintaining the account;

27 (6) the maximum number of deposits, if any, that may be made in
28 a periodic cycle without charge; and

29 (7) a maximum amount that may be charged per transaction in
30 excess of the number permitted under paragraphs (3), (4) and (6) of
31 this subsection.

32 d. (1) Notwithstanding the provisions of subsection c. of this
33 section, a depository institution may establish a New Jersey Consumer
34 Checking Account by:

35 (a) providing the terms and conditions that would qualify the
36 account as a "lifeline account" pursuant to 12 U.S.C. §1834; or

37 (b) submitting an account to the commissioner for approval as a
38 New Jersey Consumer Checking Account by providing the
39 commissioner information which details the features and terms of the
40 account.

41 (2) The commissioner shall approve or reject ~~[the]~~ an account
42 submitted to the commissioner pursuant to subparagraph (b) of
43 paragraph (1) of this subsection d. as a New Jersey Consumer
44 Checking Account within 30 business days of receipt of the
45 information from a depository institution.

46 (3) If the commissioner does not approve an account submitted to

1 the commissioner pursuant to subparagraph (b) of paragraph (1) of
2 this subsection d. as a New Jersey Consumer Checking Account, the
3 commissioner shall provide to the depository institution, in writing, the
4 reasons for **[his]** the commissioner's decision.

5 e. The commissioner shall, prior to promulgating regulations
6 pursuant to subsection c. of this section or accepting any account for
7 approval pursuant to subparagraph (b) of paragraph (1) of subsection
8 d. of this section, review the terms and conditions of the low cost
9 personal checking accounts currently available to consumers in this
10 State and shall consider those terms and conditions in complying with
11 the provisions of subsections c. and d. of this section.

12 f. The holder of a New Jersey Consumer Checking Account shall:

13 (1) have no less access to mail or electronic banking services,
14 including direct deposits to the account by payors, than that offered to
15 holders of regular checking accounts at that depository institution;

16 (2) not be assessed any fee in excess of the usual fee or charge
17 made by the depository institution to its regular checking account
18 holders.

19 g. A depository institution shall provide a periodic account
20 statement to every holder of a New Jersey Consumer Checking
21 Account.

22 h. A depository institution may close a New Jersey Consumer
23 Checking Account under the same standards for fraudulent activity and
24 overdrafts as it applies to holders of regular checking accounts at the
25 depository institution or close or refuse to open a New Jersey
26 Consumer Checking Account if the consumer:

27 (1) has a regular checking account or another New Jersey
28 Consumer Checking Account in that depository institution or in any
29 other depository institution; or

30 (2) makes an intentional material misrepresentation in the
31 information provided to the depository institution to open the account.

32 i. A depository institution shall not require any holder of a New
33 Jersey Consumer Checking Account to have any other account at that
34 or any other depository institution or have a credit card issued by it or
35 any other depository institution as a condition to opening or
36 maintaining a New Jersey Consumer Checking Account.

37 (cf: P.L.1991, c.210, s.3)

38

39 14. R.S.46:30B-95 is amended to read as follows:

40 46:30B-95. Maintaining records; generally. Every holder required
41 to file a report under Article 17 of this chapter, as to any property for
42 which it has obtained the last known address of the owner, shall
43 maintain a record of the name and last known address of the owner for
44 **[10]** five years after the property becomes reportable, except to the

1 extent that a shorter time is provided in R.S.46:30B-96 or by rule of
2 the administrator.
3 (cf: R.S.46:30B-95)

4
5 15. Section 3 of P.L.1963, c.177 (46:38-15) is amended to read as
6 follows:

7 3. An adult may, during his lifetime, make a gift of a security, a life
8 insurance or endowment policy, annuity contract, tangible personal
9 property, interest in a partnership or limited partnership or money to
10 a minor under this act:

11 (a) If the subject of the gift is a security in registered form, by
12 registering it in the name of a person eligible to be custodian, or a
13 trust company, followed by substantially the following language: "as
14 custodian for (name of minor) under the New Jersey
15 Uniform Gifts to Minors Act";

16 (b) If the subject of the gift is a security not in registered form, by
17 delivering it to a person eligible to be custodian, other than the donor,
18 or a trust company, accompanied by a statement of gift in substantially
19 the following language, signed by the donor and the custodian:

20
21
22 "GIFT UNDER THE NEW JERSEY UNIFORM GIFTS TO
23 MINORS ACT

24 I, hereby deliver to,
25 (name of donor) (name of custodian)
26 as custodian under the New Jersey Uniform Gifts to Minors Act,
27 for....., the following security:

28 (name of minor)
29
30 (description of security)

31 Dated:
32 (signature of donor)

33, as custodian for said
34 (name of custodian) (name of minor)

35 hereby acknowledges receipt of the above described security under the
36 New Jersey Uniform Gifts to Minors Act.

37 Dated:.....
38 (signature of custodian)"

39 (c) If the subject of the gift is money, by paying or delivering it to
40 a broker or a bank for credit to an account in the name of a person
41 eligible to be custodian, followed by substantially the following
42 language: "as custodian for
43 (name of minor)
44 under the New Jersey Uniform Gifts to Minors Act."

45 (d) If the subject of the gift is a life insurance or endowment policy
46 or an annuity contract, by causing the ownership of the policy or

1 contract to be registered with the issuing insurance company in the
2 name of the custodian or in the name of an adult member of the
3 minor's family or in the name of a guardian of the minor or any bank
4 or trust company, followed by the words "custodian for
5 under the New Jersey Uniform Gifts to Minors
6 (name of minor)
7 Act," and such policy of life insurance or endowment policy or annuity
8 contract shall be delivered to the person in whose name it is thus
9 registered as custodian. If the policy or contract is registered in the
10 name of the donor, as custodian, such registration shall of itself
11 constitute the delivery required by this act.

12 (e) If the subject of the gift is an interest in tangible personal
13 property, by causing the ownership of the property to be transferred
14 by any appropriate written document to the custodian in his own name,
15 followed by substantially the following language: "as custodian for
16 under the New Jersey Uniform Gifts to Minors Act."
17 (name of minor)

18 (f) If the subject of the gift is an interest in a partnership or a
19 limited partnership, by delivering an assignment of the interest to the
20 custodian in his own name, followed by substantially the following
21 language: "as custodian forunder the New Jersey
22 (name of minor)

23 Uniform Gifts to Minors Act," and by notifying in writing the other
24 partner or partners in the case of a partnership or the other general
25 partner or partners in the case of a limited partnership and the donee
26 of the gift. In the case in which the assignment is made to the donor in
27 his own name, notification to the other partner or partners in the case
28 of a partnership or to the other general partner or partners in the case
29 of a limited partnership shall constitute the delivery required by this
30 subsection.

31 (cf: P.L.1981, c.377, s.2)

32

33 16. Section 15 of P.L.1963, c.177 (C.46:38-27) is amended to read
34 as follows:

35 15. (a) The custodian shall collect, hold, manage, invest and
36 reinvest the custodial property.

37 (b) The custodian shall pay over to the minor for expenditure by
38 him, or expend on behalf of the minor, so much of or all the custodial
39 property as the custodian deems advisable for the support,
40 maintenance, education, general use and benefit of the minor in the
41 manner, at the time or times, and to the extent that the custodian in his
42 absolute discretion deems suitable and proper, with or without court
43 order, with or without regard to the duty or ability of himself or of any
44 other person to support the minor, and with or without regard to any
45 other funds, income or property of the minor which may be available
46 for any such purpose.

1 (c) The court, on the application of a parent or guardian of the
2 minor, or on the application of the minor if he has attained the age of
3 14 years, may order the custodian to pay over to the minor for
4 expenditure by him, or to expend on behalf of the minor, so much of
5 or all the custodial property as is necessary for the minor's support,
6 maintenance, education, general use and benefit.

7 (d) To the extent that the custodial property is not so expended, the
8 custodian shall deliver or pay it over to the minor when he attains 21
9 years of age or, if the minor dies before attaining 21 years of age, the
10 custodian shall thereupon deliver or pay it over to the estate of the
11 minor. The donor at the time the gift is made may expressly direct
12 that the custodianship be terminated and the custodial property be paid
13 over and transferred to the minor at any time after the minor attains
14 the age of 18 years.

15 (e) The custodian, in investing and reinvesting the custodial
16 property, shall act as would a prudent man of discretion and
17 intelligence who is seeking a reasonable income and the preservation
18 of his capital, except that he may, in his discretion and without liability
19 to the minor or his estate, retain a security given to the minor in a
20 manner prescribed in this act or hold money so given in an account in
21 the bank to which it was paid or delivered by the donor.

22 (f) (Deleted by amendment.)

23 (g) The custodian may sell, exchange, convert or otherwise dispose
24 of custodial property in the manner, at the time or times, for the price
25 or prices and upon the terms he deems advisable. He may vote a
26 security which is custodial property in person or by general or limited
27 proxy. He may consent, directly or through a committee or other
28 agent, to the reorganization, consolidation, merger, dissolution or
29 liquidation of an issuer of a security which is custodial property, and
30 to the sale, lease, pledge or mortgage of any property by or to such an
31 issuer, and to any other action by such an issuer. He may execute and
32 deliver written instruments which he deems advisable to carry out any
33 of his powers as custodian.

34 (h) The custodian shall keep all custodial property separate and
35 distinct from his own property in such a manner as to identify it
36 clearly as custodial property. He shall register each security which is
37 custodial property and in registered form in his name, or in the name
38 of a trust company, followed by substantially the following language:
39 "as custodian for under the New Jersey Uniform
40 (name of minor)

41 Gifts to Minors Act," He shall hold all money which is custodial
42 property in an account with a broker or in a bank in his name followed
43 by substantially the following language: "as custodian for
44under the New Jersey Uniform Gifts to Minors Act."
45 (name of minor)

46 (i) The custodian shall keep records of all transactions with respect

1 to the custodial property and make them available for inspection at
2 reasonable intervals by a parent, guardian or legal representative of the
3 minor, or by the minor if he is 14 years of age or more.

4 (j) In addition to the powers given in this act, a custodian has all the
5 powers with respect to the custodial property which a guardian of the
6 estate would have with respect to property not held as custodial
7 property.

8 (k) If the subject of the gift is a life insurance or endowment policy
9 or annuity contract, the custodian:

10 (1) in his capacity as custodian, has all the incidents of ownership
11 in the policy or contract to the same extent as if he were the owner,
12 except that the designated beneficiary of any policy or contract on the
13 life of the minor shall be the minor's estate and the designated
14 beneficiary of any policy or contract on the life of a person other than
15 the minor shall be the custodian as custodian for the minor for whom
16 he is acting; and

17 (2) may pay premiums on the policy or contract out of the custodial
18 property.

19 (l) The custodian may, in his discretion, terminate the custodianship
20 at any time after the minor has attained the age of 18 years, but the
21 power shall not be exercised by the custodian prior to a termination
22 age fixed by the donor as provided in subsection (c) of this section.
23 (cf: P.L.1981, c.377, s.13)

24

25 17. Section 20 of P.L.1963, c.177 (C.46:38-32) is amended to read
26 as follows:

27 20. Upon the death of a custodian or renunciation of a custodian
28 designee for whom a successor custodian has been designated or
29 provided by law, the certificate of death, a written renunciation or a
30 written recital of the renunciation, as the case may be, shall be full
31 warrant to all persons for immediate transfer of the custodial property
32 to the successor if the minor is then under 21 years of age. The
33 successor shall cause each security which is custodial property and in
34 registered form to be registered, and each account with a broker or in
35 a bank to be carried, in the name of the successor custodian or a trust
36 company, followed by substantially the following language: "as
37 custodian for under the New Jersey Uniform Gifts to
38 (name of minor)
39 Minors Act" ; and shall cause each such security and all other custodial
40 property to be delivered to him together with any additional
41 instruments required for the transfer thereof.

42 (cf: P.L.1963, c.177, s.20)

43

44 18. (New section) a. For the purposes of this section:

45 "Financial institution" means an entity chartered or licensed by the
46 United States of America or by any state to accept deposits of funds

1 or make loans.

2 “Governmental unit” means the United States of America, the State
3 of New Jersey and all its counties, municipalities and school districts,
4 and any authority or other entity established by any of those
5 governmental units to fulfill a governmental function.

6 b. A person, other than a governmental unit, who is a party to an
7 action and is seeking discovery or production of evidence as permitted
8 by and pursuant to the Rules Governing the Courts of the State of
9 New Jersey or other State authority or the Federal Rules of Civil
10 Procedure requiring or requesting access to financial records
11 pertaining to a customer of the financial institution shall pay to the
12 financial institution that assembles or provides the financial records a
13 fee for reimbursement of reasonably necessary costs, directly incurred,
14 as follows:

15 (1) Reimbursement of search and processing costs, including the
16 total amount of personnel direct time incurred in locating and
17 retrieving, reproducing, packaging and preparing financial records for
18 shipment, costs for analysis of material or for managerial or legal
19 advise, expertise, research, or time spent for any of these activities.
20 Search and processing costs may include the actual cost of extracting
21 information stored by computer in the format in which it is normally
22 produced, based on computer time and necessary supplies.

23 (2) Reimbursement for reproduction costs incurred in making
24 copies of documents required or requested. The rate for reproduction
25 costs for making copies of required or requested documents shall be
26 the institution’s usual rate charged to its customers for reproducing
27 copies, including copies produced by reader-printer reproduction
28 processes. Photographs, films, and other materials shall be reimbursed
29 at actual cost.

30 (3) Reimbursement of transportation costs, including transport of
31 personnel to locate and retrieve the information or material required
32 or requested and including all other reasonably necessary costs to
33 convey the information or material to the place of examination.

34 c. Payment for reasonably necessary, directly incurred costs to
35 financial institutions shall be limited to material required or requested.

36 d. Payment shall be made only for costs that are both directly
37 incurred and reasonably necessary, and search and processing,
38 reproduction, and transportation costs shall be considered separately.

39 e. A financial institution may require an advance payment, based on
40 the institution’s good faith estimate or the charges permitted by this
41 act. Any payment in excess of the actual charge shall be promptly
42 refunded by the financial institution.

43 f. If a party to a lawsuit making the request for materials or
44 information withdraws the legal process or formal written request, or
45 if the customer revokes the authorization for release of materials or
46 information, or if the legal process or request has been successfully

1 challenged by the customer, the party shall promptly notify the
2 financial institution of these facts. The party shall be responsible only
3 for the costs directly incurred prior to the time that the financial
4 institution receives this notice.

5 g. A financial institution is not entitled to reimbursement under this
6 section for costs incurred in assembling or providing financial records
7 provided as an incident to perfecting a security interest, proving a
8 claim in bankruptcy, or otherwise collecting on a debt owing to the
9 financial institution itself or to the institution in its role as a fiduciary.

10
11 19. (New section) A depository institution which is presented
12 with an execution on an account pursuant to N.J.S.2A:17-57 et seq.,
13 may deduct from the amount levied and retain for itself as
14 compensation for its expenses and services, a service fee, provided
15 that the deposit agreement between the depository institution and the
16 depositor provides for such a fee. The portion of any service fee
17 which has priority over an execution pursuant to this section shall not
18 exceed \$60 or such greater or lesser amount as the Commissioner of
19 Banking may establish from time to time by regulation.

20 Nothing herein shall effect the validity or priority of any lien or
21 other right of set-off that the depository institution may have with
22 respect to the account which is levied upon.

23 For purposes of this section:

24 "Account" means a checking account, savings account or other
25 deposit account of a type which is insured by the Federal Deposit
26 Insurance Corporation.

27 "Depository institution" means any state or federally chartered
28 bank, savings bank, savings and loan association or credit union which
29 accepts deposits of funds.

30
31 20. (New section) A bank may originate or acquire mortgage loans
32 secured by a mortgage constituting a lien upon real property or upon
33 a lease of the fee of real property, so long as the bank observes
34 prudent banking practices, including amortization of the loans. The
35 value of any mortgage loan shall not exceed 90 per cent of the
36 appraised value of the mortgaged property, except for a mortgage loan
37 that is less than \$100,000 or as permitted by the Commissioner of
38 Banking by regulation. A bank shall obtain an appropriate evaluation
39 of the real property collateral that is consistent with safe and sound
40 banking practices.

41
42 21. (New section) Any bank that is in compliance with Regulation
43 O of the Board of Governors of the Federal Reserve System, 12
44 C.F.R. §215 et seq., is deemed to be in compliance with the provisions
45 of sections 71 through 75 of P.L.1948, c.47 (C.17:9A-71 through
46 17:9A-75).

1 concerning loans to officers, directors and principle shareholders, is
2 deemed to be in compliance with sections 71 through 75 of P.L.1948,
3 c.47 (C.17:9A-71 through 17:9A-75); removes certain requirements
4 with respect to notice on the sale, assignment or transfer of the
5 servicing of a mortgage loan which are preempted by federal law;
6 conforms the State funds availability law with federal law and its
7 preemptions; and provides that a depository institution that is in
8 conformance with federal requirements with respect to "lifeline
9 accounts" also meets the requirements of the New Jersey Consumer
10 Checking Account.

11 The bill also amends the "New Jersey Uniform Gifts to Minors Act"
12 to make it similar to the "New Jersey Uniform Transfers to Minors
13 Act" by permitting trust companies to be designated as custodians with
14 respect to the gift of a security.

15 The bill provides for the recovery of expenses incurred by
16 depository institutions as a result of responding to: (1) a person, other
17 than a governmental unit, who is a party to a lawsuit and is seeking
18 discovery or production of evidence as permitted by and pursuant to
19 the Rules Governing the Courts of the State of New Jersey or other
20 State authority or the Federal Rules of Civil Procedure and (2) an
21 execution on an account pursuant to N.J.S.2A:17-57 et seq..

22

23

24

25

26 Provides regulatory relief for banks and savings banks.