

[First Reprint]
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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AFI committee amendments adopted May 13, 1996.

1 rate increases may, and interest rate decreases shall, apply to all
2 outstanding unpaid indebtedness under the plan on or after the
3 effective date of the rate variation, as provided in the plan agreement.
4 (cf: P.L.1985, c.81, s.5)

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

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

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

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

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

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

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

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

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

34 10. Revolving credit plan prohibitions. No revolving credit plan
35 agreement shall contain:

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

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

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

1 d. [A requirement that the credit be secured by real property.]
2 (Deleted by amendment, P.L. , c. .)
3 (cf: P.L.1985, c.81, s.10)

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

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

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

38 For purposes of this section a variation in periodic percentage rates
39 of interest in accordance with the terms of the index established in the
40 revolving credit plan agreement[and notice provided pursuant to
41 section 25] shall not be considered to be an amendment.
42 (cf: P.L.1985, c.81, s.12)

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

46 15. Periodic percentage rates. The periodic percentage rates of

1 interest charged and collected with respect to a loan under a closed
2 end credit agreement may, subject to any limitations set forth in the
3 loan agreement, vary in accordance with the market interest rate index
4 specified in the loan agreement, which index shall be readily verifiable
5 by the borrower and beyond the control of the lender. Periodic
6 percentage rate increases, based on a rise in the interest rate index,
7 may be made at the option of the lender. Periodic percentage rate
8 decreases shall be made whenever there is a decrease in the interest
9 rate index which results in an interest rate which is less than the
10 interest rate then applicable to the note or loan, except that the loan
11 agreement may stipulate a percentage decrease below which a
12 corresponding decrease in the periodic percentage rate need not be
13 made by the lender, provided the index decrement shall be the same as
14 the index increment used for interest rate increases. Interest rate
15 increases may, and interest rate decreases shall, apply to any
16 outstanding and unpaid loan balances on or after the effective date of
17 the rate variation. Upon an increase in the rate of interest, the term of
18 the note shall be extended as necessary to provide for payment of the
19 balance due without any increase in the amount of each of the
20 borrower's periodic payments, except that the periodic payments may
21 be increased, if either a. [the borrower, at his option within 20 days of
22 the date of the notice provided by the lender pursuant to section 25,
23 specifically requests the lender, in writing, to increase each periodic
24 payment or the final payment, rather than extend the term] the
25 agreement so provides or the parties agree to the increase in writing,
26 or b. if the periodic payment amounts would not be sufficient to
27 reduce the principal amount due, the lender, no sooner than 30 days
28 after notifying the borrower of that fact [pursuant to section 25], may
29 require that the periodic payments be increased, or that there be a
30 combination of an extended term and increased periodic payments.
31 (P.L.1985, c.81, s.15)
32

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

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

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

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

1 charges except as may be specifically limited by P.L.1985, c.81
2 (C.17:3B-4 et seq.)

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

4

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

7 18. Insurance. A lender under a closed or open end credit
8 agreement may:

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

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

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

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

19

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

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

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

33

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

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

1 by-laws or by resolution of the board.

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

3

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

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

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

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

26 c. [The purchasing servicing organization shall issue corrected
27 coupon or payment books, if such are used, not later than 20 days
28 after the first mortgage escrow payment to the purchasing servicing
29 organization is due and shall provide the mortgagor with the name,
30 address and telephone number of the purchasing servicing organization
31 and information regarding the purchasing servicing organization's
32 procedures for responding to questions from a mortgagor.]¹[(Deleted
33 by amendment, P.L. , c. .)] The purchasing servicing
34 organization shall issue corrected coupon or payment books, if such
35 are used, not later than 20 days after the first mortgage escrow
36 payment to the purchasing servicing organization is due.¹

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

46 e. A mortgagee or servicing organization which has been

1 authorized to receive the original tax bill from the tax collector of the
2 taxing district in which the mortgagor's property is located pursuant
3 to R.S.54:4-64, may request the tax collector to send the original tax
4 bill to its property tax processing organization. This request shall be
5 made in writing on a form approved by the commissioner.

6 For the purposes of this section, "the date the next payment of
7 property taxes is due" means either the first day of February, May,
8 August or November, as applicable, and shall not include any grace
9 period.

10 For the purposes of this section, the terms, "purchasing servicing
11 organization" and "selling servicing organization" shall not include the
12 Government National Mortgage Association, the Federal National
13 Mortgage Association, the Federal Home Loan Mortgage Corporation,
14 the Resolution Trust Corporation, or the Federal Deposit Insurance
15 Corporation, if the assignment, sale, or transfer of the servicing of the
16 mortgage loan is preceded by:

17 (1) Termination of the contract for servicing the loan for cause;
18 (2) Commencement of proceedings for bankruptcy of the servicer;
19 or

20 (3) Commencement of proceedings by the Federal Deposit
21 Insurance Corporation or the Resolution Trust Corporation for
22 conservatorship or receivership of the servicer, or an entity by which
23 the servicer is owned or controlled.

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

25

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

28 1. As used in this act:

29 a. "Banking institution" means any State or federally chartered
30 bank, savings bank, or savings and loan association, including a
31 federally chartered savings bank;

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

33 c. "Deposit account" means an account in a banking institution
34 used by the account holder for personal or family purposes, but does
35 not include an account as defined in the federal "Expedited Funds
36 Availability Act," 12 U.S.C. §4001 et seq., which account is subject to
37 the disclosure of funds availability policy requirements as set forth in
38 12 U.S.C. §4004.

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

40

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

43 3. a. Every depository institution that maintains regular checking
44 accounts in this State shall make available to consumers a New Jersey
45 Consumer Checking Account at all offices of that depository
46 institution where regular checking accounts are offered or available.

1 A New Jersey Consumer Checking Account shall be used primarily for
2 personal, family, or household purposes. No depository institution
3 shall be required to offer a New Jersey Consumer Checking Account
4 at a cost which is below its actual cost to provide such an account.
5 The calculation made by a depository institution of the actual cost of
6 providing a New Jersey Consumer Checking Account shall be
7 determinative in the absence of mathematical error or a request from
8 the commissioner for other data and information deemed relevant or
9 appropriate for evaluating the actual cost of providing a New Jersey
10 Consumer Checking Account. New Jersey Consumer Checking
11 Accounts shall contain the features specified in subsection c. of this
12 section or be an account the features and terms of which have been
13 approved by the commissioner pursuant to subsection d. of this
14 section.

15 b. An applicant for a New Jersey Consumer Checking Account
16 shall provide the depository institution with the same information an
17 applicant for a regular checking account is required to provide at that
18 depository institution.

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

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

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

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

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

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

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

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

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

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

45 (b) submitting an account to the commissioner for approval as a
46 New Jersey Consumer Checking Account by providing the

1 commissioner information which details the features and terms of the
2 account.

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

8 (3) If the commissioner does not approve an account submitted to
9 the commissioner pursuant to subparagraph (b) of paragraph (1) of
10 this subsection d. as a New Jersey Consumer Checking Account, the
11 commissioner shall provide to the depository institution, in writing, the
12 reasons for ~~[his]~~ the commissioner's decision.

13 e. The commissioner shall, prior to promulgating regulations
14 pursuant to subsection c. of this section or accepting any account for
15 approval pursuant to subparagraph (b) of paragraph (1) of subsection
16 d. of this section, review the terms and conditions of the low cost
17 personal checking accounts currently available to consumers in this
18 State and shall consider those terms and conditions in complying with
19 the provisions of subsections c. and d. of this section.

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

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

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

27 g. A depository institution shall provide a periodic account
28 statement to every holder of a New Jersey Consumer Checking
29 Account.

30 h. A depository institution may close a New Jersey Consumer
31 Checking Account under the same standards for fraudulent activity and
32 overdrafts as it applies to holders of regular checking accounts at the
33 depository institution or close or refuse to open a New Jersey
34 Consumer Checking Account if the consumer:

35 (1) has a regular checking account or another New Jersey
36 Consumer Checking Account in that depository institution or in any
37 other depository institution; or

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

40 i. A depository institution shall not require any holder of a New
41 Jersey Consumer Checking Account to have any other account at that
42 or any other depository institution or have a credit card issued by it or
43 any other depository institution as a condition to opening or
44 maintaining a New Jersey Consumer Checking Account.

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

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

2 46:30B-95. Maintaining records; generally. Every holder required
3 to file a report under Article 17 of this chapter, as to any property for
4 which it has obtained the last known address of the owner, shall
5 maintain a record of the name and last known address of the owner for
6 [10] five years after the property becomes reportable, except to the
7 extent that a shorter time is provided in R.S.46:30B-96 or by rule of
8 the administrator.

9 (cf: R.S.46:30B-95)

10

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

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

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

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

26

27

28 "GIFT UNDER THE NEW JERSEY UNIFORM GIFTS TO
29 MINORS ACT

30 I, hereby deliver to,
31 (name of donor) (name of custodian)

32 as custodian under the New Jersey Uniform Gifts to Minors Act,
33 for....., the following security:

34 (name of minor)
35

36 (description of security)

37 Dated:
38 (signature of donor)

39, as custodian for said
40 (name of custodian) (name of minor)

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

43 Dated:.....
44 (signature of custodian)"

45 (c) If the subject of the gift is money, by paying or delivering it to
46 a broker or a bank for credit to an account in the name of a person

1 eligible to be custodian, followed by substantially the following
2 language: "as custodian for

3 (name of minor)

4 under the New Jersey Uniform Gifts to Minors Act."

5 (d) If the subject of the gift is a life insurance or endowment policy
6 or an annuity contract, by causing the ownership of the policy or
7 contract to be registered with the issuing insurance company in the
8 name of the custodian or in the name of an adult member of the
9 minor's family or in the name of a guardian of the minor or any bank
10 or trust company, followed by the words "custodian for
11

12 (name of minor)

13 Act," and such policy of life insurance or endowment policy or annuity
14 contract shall be delivered to the person in whose name it is thus
15 registered as custodian. If the policy or contract is registered in the
16 name of the donor, as custodian, such registration shall of itself
17 constitute the delivery required by this act.

18 (e) If the subject of the gift is an interest in tangible personal
19 property, by causing the ownership of the property to be transferred
20 by any appropriate written document to the custodian in his own name,
21 followed by substantially the following language: "as custodian for
22

23 (name of minor)

24 (f) If the subject of the gift is an interest in a partnership or a
25 limited partnership, by delivering an assignment of the interest to the
26 custodian in his own name, followed by substantially the following
27 language: "as custodian forunder the New Jersey

28 (name of minor)

29 Uniform Gifts to Minors Act," and by notifying in writing the other
30 partner or partners in the case of a partnership or the other general
31 partner or partners in the case of a limited partnership and the donee
32 of the gift. In the case in which the assignment is made to the donor in
33 his own name, notification to the other partner or partners in the case
34 of a partnership or to the other general partner or partners in the case
35 of a limited partnership shall constitute the delivery required by this
36 subsection.

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

38

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

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

43 (b) The custodian shall pay over to the minor for expenditure by
44 him, or expend on behalf of the minor, so much of or all the custodial
45 property as the custodian deems advisable for the support,
46 maintenance, education, general use and benefit of the minor in the

1 manner, at the time or times, and to the extent that the custodian in his
2 absolute discretion deems suitable and proper, with or without court
3 order, with or without regard to the duty or ability of himself or of any
4 other person to support the minor, and with or without regard to any
5 other funds, income or property of the minor which may be available
6 for any such purpose.

7 (c) The court, on the application of a parent or guardian of the
8 minor, or on the application of the minor if he has attained the age of
9 14 years, may order the custodian to pay over to the minor for
10 expenditure by him, or to expend on behalf of the minor, so much of
11 or all the custodial property as is necessary for the minor's support,
12 maintenance, education, general use and benefit.

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

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

28 (f) (Deleted by amendment.)

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

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

1 Gifts to Minors Act," He shall hold all money which is custodial
 2 property in an account with a broker or in a bank in his name followed
 3 by substantially the following language: "as custodian for
 4under the New Jersey Uniform Gifts to Minors Act."

5 (name of minor)

6 (i) The custodian shall keep records of all transactions with respect
 7 to the custodial property and make them available for inspection at
 8 reasonable intervals by a parent, guardian or legal representative of the
 9 minor, or by the minor if he is 14 years of age or more.

10 (j) In addition to the powers given in this act, a custodian has all the
 11 powers with respect to the custodial property which a guardian of the
 12 estate would have with respect to property not held as custodial
 13 property.

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

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

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

25 (l) The custodian may, in his discretion, terminate the custodianship
 26 at any time after the minor has attained the age of 18 years, but the
 27 power shall not be exercised by the custodian prior to a termination
 28 age fixed by the donor as provided in subsection (c) of this section.

29 (cf: P.L.1981, c.377, s.13)

30

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

33 20. Upon the death of a custodian or renunciation of a custodian
 34 designee for whom a successor custodian has been designated or
 35 provided by law, the certificate of death, a written renunciation or a
 36 written recital of the renunciation, as the case may be, shall be full
 37 warrant to all persons for immediate transfer of the custodial property
 38 to the successor if the minor is then under 21 years of age. The
 39 successor shall cause each security which is custodial property and in
 40 registered form to be registered, and each account with a broker or in
 41 a bank to be carried, in the name of the successor custodian .or a trust
 42 company. followed by substantially the following language: "as
 43 custodian for under the New Jersey Uniform Gifts to

44 (name of minor)

45 Minors Act" ; and shall cause each such security and all other custodial
 46 property to be delivered to him together with any additional

1 instruments required for the transfer thereof.

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

3

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

5 “Financial institution” means an entity chartered or licensed by the
6 United States of America or by any state to accept deposits of funds
7 or make loans.

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

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

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

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

36 (3) Reimbursement of transportation costs, including transport of
37 personnel to locate and retrieve the information or material required
38 or requested and including all other reasonably necessary costs to
39 convey the information or material to the place of examination.

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

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

45 e. A financial institution may require an advance payment, based on
46 the institution’s good faith estimate or the charges permitted by this

1 act. Any payment in excess of the actual charge shall be promptly
2 refunded by the financial institution.

3 f. If a party to a lawsuit making the request for materials or
4 information withdraws the legal process or formal written request, or
5 if the customer revokes the authorization for release of materials or
6 information, or if the legal process or request has been successfully
7 challenged by the customer, the party shall promptly notify the
8 financial institution of these facts. The party shall be responsible only
9 for the costs directly incurred prior to the time that the financial
10 institution receives this notice.

11 g. A financial institution is not entitled to reimbursement under this
12 section for costs incurred in assembling or providing financial records
13 provided as an incident to perfecting a security interest, proving a
14 claim in bankruptcy, or otherwise collecting on a debt owing to the
15 financial institution itself or to the institution in its role as a fiduciary.
16

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

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

29 For purposes of this section:

30 "Account" means a checking account, savings account or other
31 deposit account of a type which is insured by the Federal Deposit
32 Insurance Corporation.

33 "Depository institution" means any state or federally chartered
34 bank, savings bank, savings and loan association or credit union which
35 accepts deposits of funds.
36

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

1 21. (New section) Any bank that is in compliance with Regulation
2 O of the Board of Governors of the Federal Reserve System, 12
3 C.F.R. §215 et seq., is deemed to be in compliance with the provisions
4 of sections 71 through 75 of P.L.1948, c.47 (C.17:9A-71 through
5 17:9A-75).

6
7 ¹22. (New section) Any bank that is in compliance with the federal
8 "Depository Institution Management Interlocks Act," 12 U.S.C. §3201
9 et seq. and the federal regulations effectuating that act, 12 C.F.R.
10 §348, is deemed to be in compliance with the provisions of sections 1
11 through 6 of P.L.1975, c.265 (17:16E-1 et seq.).¹

12
13 ¹[22.] 23.¹ The following are repealed:
14 Section 25 of P.L.1985, c.81 (C.17:3B-28);
15 Sections 64 through 70 of P.L.1948, c.67 (C.17:9A-64 through
16 17:9A-70);
17 Section 2 of P.L.1973, c.328 (C.17:9A-65.1);
18 ¹[P.L.1975, c.265 (C.17:16E-1 et seq.);]¹
19 Sections 4, 5 and 6 of P.L.1977, c.1 (C.17:16F-4 through 17:16F-
20 6);
21 Sections 2, 6, 7 and 8 of P.L.1990, c.69 (C.17:16F-16 and 17:16F-
22 20 through 17:16F-22); and
23 P.L.1979, c.87 (C.56:11-10 through 56:11-15).

24
25 ¹[23.] 24.¹ This act shall take effect immediately.

26
27
28
29
30 Provides regulatory relief for banks and savings banks.