

ASSEMBLY, No. 2139

STATE OF NEW JERSEY

INTRODUCED JUNE 10, 1996

By Assemblyman GARCIA

1 AN ACT concerning revolving credit and amending various parts of
2 statutory law.

3

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

6

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

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

28 (cf: P.L.1985, c.81, s.5)

29

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

32 12. a. A lender may, if the agreement governing a revolving credit
33 plan so provides, at any time amend the terms of the agreement [with
34 respect to the periodic percentage rates used to calculate interest, 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 method of computing the outstanding unpaid indebtedness to which
2 those rates are applied, and the terms of the installment repayment
3 schedule,]subject to the limitations of subsection b. of this section.
4 b. The lender shall notify each affected borrower of any
5 amendment pursuant to subsection a. by mailing or delivering to the
6 borrower, at least [30] 15 days before the effective date of the
7 amendment, a clear and conspicuous written notice which shall
8 describe the amendment and the existing terms of the agreement
9 affected by the amendment and shall also set forth the effective date
10 of the amendment and the pertinent information contemplated by the
11 following provisions of this section. If the amendment has the effect
12 of increasing the interest or other charges to be paid by the borrower
13 [by changing the method of calculating interest] or changes the index
14 used to calculate the interest, the amendment shall become effective
15 only if the borrower uses the plan after a date specified in the notice
16 which is at least [30] 15 days after the giving of the notice, but which
17 need not be the date the amendment becomes effective, by making a
18 purchase or obtaining a loan, or if the borrower indicates to the lender
19 in writing the borrower's express agreement to the amendment, and the
20 amendment may become effective as to a particular borrower as of the
21 first day of the billing period during which the borrower so used the
22 borrower's account or so indicated agreement to the amendment. Any
23 borrower who fails to use the borrower's account or so to indicate
24 agreement to an amendment shall be permitted to pay the outstanding
25 unpaid indebtedness in the borrower's account under the plan in
26 accordance with the terms of the agreement governing the plan at the
27 time of the giving of the notice without giving effect to the
28 amendment.

29 For purposes of this section: (1) a variation in periodic percentage
30 rates of interest in accordance with the terms of the index established
31 in the revolving credit plan agreement and notice provided pursuant to
32 section 25 of P.L.1985, c.81 (C.17:3B-28) shall not be considered to
33 be an amendment; and (2) if a borrower accepts a revolving credit plan
34 which provides for an initial introductory indexed periodic percentage
35 rate of interest which, at a later date specified in the plan, is followed
36 by a percentage rate of interest established pursuant to the
37 requirements of section 5 of P.L.1985, c.81 (C.17:3B-5) either using
38 the same index with a different margin or using a different index, the
39 change from the introductory rate to the agreed upon subsequent rate
40 shall not be considered an amendment.

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

42

43 3. Section 6 of P.L.1959, c.91 (C.17:9A-59.6) is amended to read
44 as follows:

45 6. A. Notwithstanding the provisions of R.S.31:1-1 or any other
46 law to the contrary, the rate or rates of interest on advance loans shall

1 be as agreed to by the bank and the borrower. Interest may be
2 reckoned according to any method authorized by R.S.31:1-1.

3 The contract may provide that [the interest rate may be increased,
4 or may be decreased, or both, from time to time; provided, however,
5 that no increase in interest shall be effective unless: (a) at least 90
6 days prior to the effective date of the first such increase, or 30 days
7 prior to the effective date of any subsequent increase, a written notice
8 has been mailed or delivered to the borrower that clearly and
9 conspicuously describes such change and the indebtedness to which it
10 applies and states that the incurrence by the borrower or another
11 person authorized by him of any further indebtedness under the plan
12 to which the agreement relates on or after the effective date of the
13 increase specified in the notice shall constitute acceptance of the
14 increase and (b) either the borrower agrees in writing to the increase
15 or the borrower or another person authorized by him incurs such
16 further indebtedness on or after the effective date of the increase
17 stated in the notice.] the bank may at any time, or from time to time,
18 change the terms of the contract, provided however, that:

19 (1) the periodic interest rate shall not be changed more than once
20 in each billing cycle;

21 (2) any change in the periodic interest rate shall correspond to the
22 movement of a market interest rate index specified in the contract
23 which is readily verifiable by the borrower and beyond the control of
24 the bank;

25 (3) a change in any term of the contract including the periodic
26 interest rate may be permitted to apply to any then-outstanding unpaid
27 indebtedness in the borrower's account including any indebtedness
28 which shall have arisen from advance loans obtained prior to the
29 effective date of the change, provided that fact is clearly and
30 conspicuously disclosed in the contract;

31 (4) if the contract provides for the possibility of change in any term
32 of the contract including the interest rate, that fact shall be clearly
33 described in plain language, in at least 8-point bold face type on the
34 face of the written notice;

35 (5) no change in any term of the contract or of the index specified
36 in the contract shall be effective unless: (a) at least 15 days prior to the
37 effective date of the change, a written notice has been mailed or
38 delivered to the borrower that clearly and conspicuously describes the
39 change and the indebtedness to which it applies and states that the
40 incurrence by the borrower or another person authorized by him of any
41 further indebtedness under the law to which the contract relates on or
42 after the effective date of the change specified in the notice shall
43 constitute acceptance of the change; and (b) either the borrower
44 agrees in writing to the change or the borrower or another person
45 authorized by him incurs such further indebtedness on or after the
46 effective date of the change stated in the notice, which indebtedness

1 may include outstanding balances; and

2 (6) any borrower who, after receipt of a written notice pursuant to
3 paragraph (5) of this subsection A., chooses not to use the borrower's
4 account or chooses not to indicate acceptance of a change in any term
5 of the contract or of the index specified in the contract, shall be
6 permitted to pay any outstanding unpaid indebtedness in the
7 borrower's account under the plan in accordance with the terms of the
8 contract governing the plan at the time the notice was sent without
9 giving effect to the change.

10 If a borrower accepts an advance loan contract which provides for
11 an initial introductory indexed interest rate which, at a later date
12 specified in the contract, is followed by an interest rate established
13 pursuant to the requirements of this subsection either using the same
14 index with a different margin or using a different index, the provisions
15 of paragraph (6) of this subsection shall not apply with respect to the
16 the change from the introductory indexed interest rate to the agreed
17 upon subsequent interest rate.

18 The provisions of this [paragraph] subsection permitting an increase
19 in a rate of interest shall not apply in the case of an agreement which
20 expressly prohibits changing of interest rates or which provides
21 limitations on changing of interest rates which are more restrictive
22 than the requirements of this paragraph. If the contract provides for
23 the possibility of an increase or decrease, or both, in the rate, that fact
24 shall be clearly described in plain language, in at least 8-point boldface
25 type on the face of the contract.

26 B. For the purposes of this section, charges for premiums advanced
27 by the bank for credit life insurance, or credit accident and health
28 insurance, or both, shall be treated as part of the principal balance
29 owing on an advance loan, but no such charge shall be included in
30 determining the maximum permissible indebtedness as limited by
31 section 11 of [this act] P.L.1959, c.91 (C.17:9A-59.11).

32 C. Notwithstanding the provisions of any other law to the contrary,
33 a bank which issues a credit card in connection with an advance loan
34 contract in effect between the bank and the borrower as authorized by
35 this act may charge the borrower a fee not exceeding \$15.00 per
36 annum on an annual or monthly basis; except that, if under the advance
37 loan contract, the bank may lend the borrower an amount of \$5,000.00
38 or more, the bank may charge the borrower a fee not exceeding \$50.00
39 per annum on an annual or monthly basis. The charge so made (1)
40 may be collected in advance, (2) shall be in addition to and not in
41 substitution of any other fee or charge authorized by this act, and (3)
42 shall not be deemed to be an interest charge.

43 (cf: P.L.1984, c.225, s.1)

44

45 4. R.S.17:10-14 is amended to read as follows:

46 17:10-14. a. Notwithstanding the provisions of R.S.31:1-1 or any

1 other law to the contrary, every licensee hereunder may loan any sum
2 of money not exceeding \$15,000 repayable in installments, and may
3 charge, contract for and receive thereon interest at an annual
4 percentage rate or rates agreed to by the licensee and the borrower.

5 b. A closed-end loan contract may provide for a variation in the
6 rate of interest in which adjustments to the interest rate shall
7 correspond directly to the movement of an interest rate index which is
8 readily available to and verifiable by the borrower and is beyond the
9 control of the lender. No increase during the entire loan term shall
10 result in an interest rate of more than 6% per annum over the rate
11 applicable initially, nor shall the rate be raised more than 3% per
12 annum during any 12-month period. The lender shall not be obligated
13 to decrease the interest rate more than 6% over the term of the loan,
14 nor more than 3% per annum during any 12-month period. If a rate
15 increase is applied to the loan, the lender shall also be obligated to
16 adopt and implement uniform standards for decreasing the rate. If the
17 contract provides for the possibility of an increase or decrease, or
18 both, in the rate, that fact shall be clearly described in plain language,
19 in at least 8-point bold face type on the face of the contract. No rate
20 increase shall take effect during the first three years of the term of the
21 loan, or thereafter, [(a)](1) unless at least 90 days prior to the
22 effective date of the first such increase, or 30 days prior to the
23 effective date of any subsequent increase, a written notice has been
24 mailed or delivered to the borrower that clearly and conspicuously
25 describes such increase, and [(b)](2) unless at least 365 days have
26 elapsed without any increase in the rate. No increase during the entire
27 loan shall result in an interest rate of more than 6% per annum over
28 the rate applicable initially, nor shall the rate be raised more than 3%
29 per annum during any 12-month period. Where the loan contract so
30 provides for an increase or decrease in the rate of interest, the
31 provision of R.S.17:10-13 requiring that no installment be substantially
32 greater in amount than any preceding installment shall not apply.

33 c. An open-end loan agreement may provide that the lender may at
34 any time, or from time to time, change the terms of the agreement,
35 including the terms governing the periodic interest rate, calculation of
36 interest or the method of computing the required amount of periodic
37 installment payments, provided however, that:

38 [a.](1) the periodic interest rate shall not be changed more than
39 once in each billing cycle;

40 [b.](2) any change in the periodic interest rate shall correspond to
41 the movement of a market interest rate index specified in the
42 agreement which is readily verifiable by the borrower and beyond the
43 control of the lender;

44 [c.](3) a change in any term of the agreement, including the
45 periodic interest rate, may be permitted to apply to any
46 then-outstanding unpaid indebtedness in the borrower's account

1 including any indebtedness which shall have arisen from advances
2 obtained prior to the effective date of the change, provided that fact
3 is clearly and conspicuously disclosed in the agreement;

4 ~~[d.](4)~~ if the agreement provides for the possibility of change in
5 any term of the agreement including the rate, that fact shall be clearly
6 described in plain language, in at least 8-point bold face type on the
7 face of the written notice; ~~[and]~~

8 ~~[e.](5)~~ no change in any term of the agreement or of the index
9 specified in the agreement shall be effective unless:~~[(1)](a)~~ at least
10 ~~[30]~~ 15 days prior to the effective date of the change, a written notice
11 has been mailed or delivered to the borrower that clearly and
12 conspicuously describes the change and the indebtedness to which it
13 applies and states that the incurrence by the borrower or another
14 person authorized by him of any further indebtedness under the law to
15 which the agreement relates on or after the effective date of the
16 change specified in the notice shall constitute acceptance of the
17 change; and~~[(2)](b)~~ either the borrower agrees in writing to the change
18 or the borrower or another person authorized by him incurs such
19 further indebtedness on or after the effective date of the change stated
20 in such notice, which indebtedness may include outstanding balances;
21 and

22 (6) any borrower who, after receipt of a written notice pursuant to
23 paragraph (5) of this subsection c., chooses not to use the borrower's
24 account or chooses not to indicate acceptance of a change in any term
25 of the agreement or of the index specified in the agreement, shall be
26 permitted to pay any outstanding unpaid indebtedness in the
27 borrower's account under the plan in accordance with the terms of the
28 agreement governing the plan at the time the notice was sent without
29 giving effect to the change.

30 If a borrower accepts an open-end loan agreement which provides
31 for an initial introductory indexed periodic interest rate which, at a
32 later date specified in the plan, is followed by a periodic interest rate
33 established pursuant to the requirements of this subsection either using
34 the same index with a different margin or using a different index, the
35 provisions of paragraph (6) of this subsection shall not apply with
36 respect to the change from the introductory indexed periodic interest
37 rate to the agreed upon subsequent periodic interest rate.

38 d. The lender shall notify each affected borrower of any change in
39 the manner set forth in the closed-end and open-end agreement
40 governing the plan and in compliance with the requirements of the
41 federal Truth in Lending Act (15 U.S.C. §1601 et seq.) and regulations
42 promulgated thereunder, as in effect from time to time, if applicable.

43 e. The interest and periodic payments for loans at these rates shall
44 be computed from standard tables based on the actuarial or annuity
45 method which conforms to the so-called "United States Rule of Partial
46 Payments," which provides that interest shall be calculated whenever

1 a payment is made and the payment shall be first applied to the
2 payment of interest and if it exceeds the interest due, the balance is to
3 be applied to diminish principal. If the payment is insufficient to pay
4 the entire amount of interest, the balance of interest due shall not be
5 added to principal, so as to produce interest thereon.

6 f. No interest shall be paid, deducted, or received in advance.
7 Interest shall not be compounded and shall be computed only on
8 unpaid principal balances. For the purpose of computing interest, all
9 installment payments shall be applied on the date of receipt, and
10 interest shall be charged for the actual number of days elapsed at the
11 daily rate of 1/365 of the yearly rate.

12 g. No licensee shall induce or permit any person nor any husband
13 and wife, jointly or severally, to become obligated, directly or
14 contingently or both, under more than one contract of loan at the same
15 time for the purpose of obtaining a higher rate of interest than would
16 otherwise be permitted by this section. This prohibition shall not apply
17 to any loan made pursuant to any other law of this State.

18 h. In addition to the interest herein provided for, no further or
19 other charge, or amount whatsoever for any examination, service,
20 brokerage, commission, expense, fee, or bonus or other thing or
21 otherwise shall be directly or indirectly charged, contracted for, or
22 received, except for any amount actually paid by a licensee to a public
23 official for the recording of a security interest in connection with
24 security given for the loan and (1) amounts for insurance obtained or
25 provided by the licensee in accordance with the provisions of this
26 chapter; (2) on actual sale of the security in foreclosure proceedings
27 or upon the entry of judgment; (3) a returned check fee not to exceed
28 \$20 which the licensee may charge the borrower if a check of the
29 borrower is returned to the licensee uncollected due to insufficient
30 funds in the borrower's account; and (4) an annual fee on open-end
31 accounts which may not exceed an amount equal to one percent of the
32 line of credit or \$50, whichever is less. If any interest, consideration
33 or charges in excess of those permitted by this chapter are charged,
34 contracted for or received, except as the result of a good faith error,
35 the contract of loan shall be void and the licensee shall have no right
36 to collect or receive any principal, interest, or charges whatsoever, and
37 the borrower shall be entitled to recover from the lender any such
38 sums paid or returned to the lender by the borrower on account of or
39 in connection with the loan.

40 (cf: P.L.1995, c.53, s.3)

41

42 5. Section 48 of P.L.1963, c.144 (C.17:12B-48) is amended to
43 read as follows:

44 48. Specific powers. Without limiting the generality of the
45 foregoing, every association shall have power to:

46 (1) Have succession by its corporate name for the period limited

- 1 in its charter or certificate of incorporation, and when no period is
2 limited, perpetually.
- 3 (2) Sue and be sued in any court.
- 4 (3) Adopt and use a corporate seal and alter the same.
- 5 (4) Purchase and otherwise acquire, hold, mortgage, pledge, lease,
6 exchange, sell, convey and otherwise dispose of any real and personal
7 property, necessary or incidental to its operations and consistent with
8 its powers and purposes.
- 9 (5) Insure its members' accounts with the Federal [Savings and
10 Loan] Deposit Insurance Corporation, and comply with conditions
11 necessary to obtain and maintain such insurance.
- 12 (6) Become a member of or stockholder in a Federal Home Loan
13 Bank and to that end to comply with all conditions of membership
14 therein.
- 15 (7) Act as agent for the United States or the State of New Jersey
16 or any instrumentality of either of them, when designated for that
17 purpose, and perform such reasonable duties as such agent as may be
18 required of it.
- 19 (8) Join any cooperative league organized for the purpose of
20 protecting and promoting the welfare of associations and their
21 members and comply with all conditions of membership therein.
- 22 (9) Borrow money from any source in or out of the State, on the
23 note, bond and mortgage or other obligation of the association upon
24 such terms and conditions as the board may from time to time
25 prescribe by resolution adopted by at least a majority of all the
26 members of the board and duly recorded on the minutes and to pledge,
27 assign or transfer mortgages, owned by the association and the
28 obligations secured by such mortgages, together with the shares, if
29 any, pledged as collateral security therefor, or any real or other
30 personal property, as security for the repayment of money so
31 borrowed. No association shall borrow money if by doing so the
32 aggregate of its indebtedness for borrowed money other than to the
33 Federal Home Loan Bank will exceed 20% of its capital, except with
34 the approval of the commissioner.
- 35 (10) (Deleted by amendment.)
- 36 (11) Require an advance payment of interest for a period of one
37 month on any loan; and accept advance payments of interest, if made
38 at the option of the debtor, for any period on any loan. None of such
39 payments shall be deemed usurious.
- 40 (12) Where shares are issued, charge an admission fee, not to
41 exceed \$0.25 per share, which shall include the cost of membership or
42 share certificate and account book.
- 43 (13) Impose charges upon a member for failure to make any
44 payment to the association when due, but only as provided in this
45 paragraph. Where the association issues installment share accounts it
46 may impose such charge upon any member holding such an account or

1 any borrower upon a sinking fund mortgage not in excess of 1% a
2 month upon the amount in arrears, except for the first month's
3 arrearage or the amount by which such first month's arrearage may be
4 increased by subsequent arrearage, in which case a charge not in
5 excess of 5% may be imposed. Such charges shall be subject to the
6 further limitations that no such charge shall be deducted from any
7 amount actually paid by a member upon an account nor shall the total
8 of any such charges against any account in any fiscal year exceed the
9 amount that may be charged for failure to make any payments for a
10 6-month period nor shall any charge for default be made on a charge
11 for default. Otherwise an association may impose a charge for failure
12 to make any required payment to it when due upon any loan or
13 contract for the resale of real estate to a member, not to exceed 4% of
14 the amount of each payment in arrears, but no more than one such
15 charge may be made with respect to any one payment in arrears. An
16 association may impose a reasonable service charge against any
17 member who tenders to such association, for collection or as payment,
18 a check or other instrument of any type which subsequently is not
19 honored by the institution or person upon which such check or other
20 instrument is drawn. None of such charges shall be deemed usurious.

21 (14) Compute interest upon any direct reduction loan, on
22 designated payment dates, and add the same to the unpaid balance of
23 such loan.

24 (15) Act as agent for any person where such agency will further the
25 interests of the association and its members, subject to such limitations
26 as may be prescribed by the commissioner.

27 (16) Upon application to and approval by the commissioner, to act
28 as custodian or trustee within the contemplation of the Federal
29 Self-Employed Individuals Tax Retirement Act of 1962, as amended
30 and supplemented, and the [Employee Retirement Income Security Act
31 of 1974] federal "Employee Retirement Income Security Act of 1974,"
32 29 U.S.C. §1001 et seq., as amended and supplemented, and as
33 custodian, trustee or manager of any such investment fund the
34 authorized investments of which include, but need not be limited to,
35 savings accounts or real estate loans, and the beneficial interests in
36 which may be represented by transferable shares or certificates.
37 Associations exercising the powers authorized by this subsection shall
38 segregate all funds held in such fiduciary capacities from the general
39 assets of the association and shall keep a separate set of books and
40 records showing in detail all transactions made under authority of this
41 subsection. If individual records are kept for each self-employed
42 individual's retirement plan and each such investment fund, then all
43 such funds held in such fiduciary capacities by an association may be
44 commingled for appropriate purposes of investment. No funds held in
45 such fiduciary capacities shall be used by an association in the conduct
46 of its business; however, such funds may be invested in savings

1 accounts of the association in the event that the custodial, trust or
2 other plan does not prohibit such investment. In granting or refusing
3 the association's application the commissioner shall take into
4 consideration the investment policies, amount, type and adequacy of
5 reserves, fidelity bonds and any legally required deposits of the
6 applicant and other pertinent facts and circumstances.

7 (17) Upon compliance with subsection (5) of this section, accept
8 from its members accounts to be repaid upon such terms, not
9 inconsistent with this act, as are approved by the Commissioner of
10 Banking, by regulation or otherwise, provided that no account shall
11 exceed the limitations established by section 78 of P.L.1963, c.144
12 (C.17:12B-78), and provided further that no account shall be accepted
13 or issued in the name of any corporation, association or partnership or
14 in the name of any individual for use in trade or business. An
15 association issuing such accounts may honor demands for withdrawal
16 of such accounts in the form of negotiable checks, drafts or orders in
17 the form of electronic fund transfers and may become a member of a
18 clearing facility and satisfy reasonable conditions required for its
19 qualification and pay reasonable expenses therefor. Such accounts may
20 be either interest-bearing or noninterest-bearing; provided, however,
21 that the payment of interest on such accounts be permitted by federal
22 law. An association accepting accounts pursuant to this subsection
23 shall, at all times, maintain reserves against such accounts as shall be
24 prescribed in regulations issued by the commissioner in accordance
25 with the "Administrative Procedure Act," P.L.1968, c.410
26 (C.52:14B-1 et seq.) but such reserves shall be equal in nature and
27 amount to those required of savings banks in this State against similar
28 accounts. Such reserves shall be maintained in cash or deposits in one
29 or more reserve depositories as authorized by the Commissioner of
30 Banking. Regulations of the commissioner may also provide that
31 associations issuing such type of accounts maintain a general reserve
32 account, federal insurance reserve account and undivided profits of
33 specified minimum amounts and provide for minimum standards of
34 office facilities in connection therewith. An insured association may
35 impose a reasonable service charge for providing and maintaining such
36 accounts for the benefit of its members.

37 (18) (a) Issue credit cards, extend credit in connection therewith,
38 and otherwise engage in or participate in credit card operations subject
39 to such regulations as the commissioner may prescribe. Any such
40 regulations shall be in substantial conformity with similar rules and
41 regulations of the [Federal Home Loan Bank Board] Office of Thrift
42 Supervision subject to the limitations of paragraph (b) of this
43 subsection.

44 (b) The credit card agreement may provide that the association
45 may at any time, or from time to time, change the terms of the
46 agreement, including the terms governing the periodic interest rate,

1 calculation of interest or the method of computing the required
2 amount of periodic installment payments, provided however, that:

3 (i) the periodic interest rate shall not be changed more than once
4 in each billing cycle;

5 (ii) any change in the periodic interest rate shall correspond to the
6 movement of a market interest rate index specified in the contract
7 which is readily verifiable by the borrower and beyond the control of
8 the association;

9 (iii) a change in any term of the contract including the periodic
10 interest rate may be permitted to apply to any then-outstanding unpaid
11 indebtedness in the borrower's account including any indebtedness
12 which shall have arisen from advance loans obtained prior to the
13 effective date of the change, provided that fact is clearly and
14 conspicuously disclosed in the contract;

15 (iv) if the contract provides for the possibility of change in any
16 term of the contract including the rate, that fact shall be clearly
17 described in plain language, in at least 8-point bold face type on the
18 face of the written notice;

19 (v) no change in any term of the contract or of the index specified
20 in the contract shall be effective unless: at least 15 days prior to the
21 effective date of the change, a written notice has been mailed or
22 delivered to the borrower that clearly and conspicuously describes the
23 change and the indebtedness to which it applies and states that the
24 incurrence by the borrower or another person authorized by him of any
25 further indebtedness under the law to which the contract relates on or
26 after the effective date of the change specified in the notice shall
27 constitute acceptance of the change; and either the borrower agrees in
28 writing to the change or the borrower or another person authorized by
29 him incurs such further indebtedness on or after the effective date of
30 the change stated in such notice, which indebtedness may include
31 outstanding balances; and

32 (vi) any borrower who, after receipt of a written notice pursuant
33 to subparagraph (v) of this paragraph (b), chooses not to use the
34 borrower's account or chooses not to indicate acceptance of a change
35 in any term of the contract or of the index specified in the contract,
36 shall be permitted to pay any outstanding unpaid indebtedness in the
37 borrower's account under the plan in accordance with the terms of the
38 contract governing the plan at the time the notice was sent without
39 giving effect to the change.

40 If a borrower accepts a revolving credit plan which provides for an
41 initial introductory indexed interest rate which, at a later date specified
42 in the plan, is followed by an interest rate established pursuant to the
43 requirements of this paragraph (b) either using the same index with a
44 different margin or using a different index, the provisions of
45 subparagraph (vi) of this paragraph shall not apply with respect to the
46 change from the introductory indexed interest rate to the agreed upon

1 subsequent interest rate.
2 (19) (a) Apply to the commissioner for permission to act as
3 trustee, executor, administrator, guardian, or in any other fiduciary
4 capacity in which federal savings and loan associations doing business
5 in this State are permitted to act. Associations exercising any or all of
6 the powers enumerated in this [section] subsection shall segregate all
7 assets held in any fiduciary capacity from the general assets of the
8 association and shall keep a separate set of books and records showing
9 in proper detail all transactions engaged in under authority of this
10 [section] subsection. No association shall receive in its trust
11 department deposits of current funds subject to check or the deposit
12 of checks, drafts, bills of exchange, or other items for collection or
13 exchange purposes. Funds deposited or held in trust by the
14 association awaiting investment shall be carried in a separate account
15 and shall not be used by the association in the conduct of its business
16 unless it shall first set aside in the trust department United States
17 bonds or other securities approved by the commissioner. In the event
18 of the failure of such association, the owners of the funds held in trust
19 for investment shall have a lien on the bonds or other securities so set
20 apart, in addition to their claim against the estate of the association.
21 Whenever the laws of this State require corporations acting in a
22 fiduciary capacity to deposit securities with the State authorities for
23 the protection of private or court trusts, associations so acting shall be
24 required to make similar deposits and securities so deposited shall be
25 held for the protection of private or court trusts, as provided by New
26 Jersey law. Associations in such cases shall not be required to execute
27 the bond usually required of individuals if New Jersey corporations
28 under similar circumstances are exempt from this requirement.
29 Associations shall have power to execute such bond when so required
30 by the laws of New Jersey. In any case in which the laws of this State
31 require that a corporation acting as trustee, executor, administrator,
32 or in any capacity specified in this [section] subsection shall take an
33 oath or make an affidavit, any officer, as defined in section 65 of
34 P.L.1963, c.144 (C.17:12B-65), of such association may take the
35 necessary oath or execute the necessary affidavit. It shall be unlawful
36 for any association to lend any officer, director, or employee any funds
37 held in trust under the powers conferred by this [section] subsection.
38 Any officer, director, or employee making such loan, or to whom such
39 loan is made, may be fined not more than \$5,000.00, or imprisoned not
40 more than 5 years, or may be both fined and imprisoned, in the
41 discretion of the court. In passing upon applications for permission to
42 exercise the powers enumerated in this [section] subsection, the
43 commissioner may take into consideration the amount of capital and
44 surplus of the applying association, whether or not such capital and
45 surplus is sufficient under the circumstances of the case, the needs of
46 the community to be served, and any other facts and circumstances

1 that seem to him proper, and may grant or refuse the application
2 accordingly, except that approval shall not be granted to any
3 association having a capital and surplus less than the capital and
4 surplus required by New Jersey law of State banks, trust companies,
5 and corporations exercising such powers.

6 (b) Any association desiring to surrender its right to exercise the
7 powers granted under this [section] subsection, in order to relieve
8 itself of the necessity of complying with the requirements of this
9 [section] subsection, or to have returned to it any securities which it
10 may have deposited with the State authorities for the protection of
11 private or court trusts, or for any other purpose, may file with the
12 commissioner a certified copy of a resolution of its board of directors
13 signifying such desire. Upon receipt of such resolution, the
14 commissioner, after satisfying himself that such association has been
15 relieved in accordance with State law of all duties as trustee, executor,
16 administrator, guardian or other fiduciary, under court, private or
17 other appointments previously accepted under authority of this
18 [section] subsection, may, in its discretion, issue to such association
19 a certificate certifying that such association is no longer authorized to
20 exercise the powers granted by this [section] subsection. Upon the
21 issuance of such a certificate by the commissioner, such association (i)
22 shall no longer be subject to the provisions of this [section] subsection
23 or the regulations of the commissioner made pursuant thereto, (ii) shall
24 be entitled to have returned to it any securities which it may have
25 deposited with the State authorities for the protection of private or
26 court trusts, and (iii) shall not exercise thereafter any of the powers
27 granted by this [section] subsection without first applying for and
28 obtaining approval to exercise such powers pursuant to the provisions
29 of this [section] subsection.

30 (c) The commissioner is authorized and empowered to promulgate
31 such regulations as he may deem necessary to enforce compliance with
32 the provisions of this [section] subsection and the proper exercise of
33 the trust powers granted by this [section] subsection. Any such
34 regulations shall be in substantial conformity with similar rules and
35 regulations of the Federal [Home Loan Bank] Housing Finance Board.

36 (20) In accordance with rules and regulations promulgated by the
37 commissioner, issue and sell directly to subscribers or through
38 underwriters mutual capital certificates. Such certificates shall
39 constitute part of the general reserve and net worth of the issuing
40 association. Such certificates-

41 (a) Shall be subordinate to all savings accounts, savings
42 certificates, and debt obligations;

43 (b) Shall constitute a claim in liquidation on the general reserves,
44 surplus, and undivided profits of the association remaining after the
45 payment in full of all savings accounts, savings certificates, and debt
46 obligations;

1 (c) Shall be entitled to the payment of dividends; and

2 (d) May have a fixed or variable dividend rate.

3 The commissioner is authorized and empowered to promulgate such
4 regulations as he may deem necessary with respect to the powers
5 granted by this [section] subsection. Any such regulations shall be in
6 substantial conformity with similar rules and regulations of the Federal
7 [Home Loan Bank] Housing Finance Board. The commissioner shall
8 provide in his regulations for charging losses to the mutual capital
9 certificates, reserves, and other net worth accounts.

10 (21) If authorized by regulation of the commissioner, exercise any
11 power, right, benefit, or privilege permitted to federal associations,
12 provided that such power, right, benefit or privilege is not specifically
13 prohibited by law, which regulation shall be in substantial conformity
14 with similar rules and regulations of the Federal [Home Loan Bank]
15 Housing Finance Board; and exercise any power, right, benefit or
16 privilege under this section, modified by regulation of the
17 commissioner, where the Federal [Home Loan Bank] Housing Finance
18 Board has, by regulation, modified that power, right, benefit or
19 privilege with respect to federal associations.

20 (cf: P.L.1983, c.5, s.1)

21

22 6. Section 26 of P.L.1984, c.171 (C.17:13-104) is amended to read
23 as follows:

24 26. a. A credit union may make loans to its members, evidenced
25 by a written instrument, upon terms and upon any security, including,
26 but not limited to, the endorsement of a note by a surety, comaker, or
27 guarantor, assignment of an interest in real or personal property, or
28 assignment of shares, as the board may provide. The adequacy of any
29 security shall be determined by the credit committee. No loan shall be
30 made to any member when the aggregate amount of all that member's
31 loans outstanding exceeds 10% of the credit union's total assets. The
32 board, in its discretion, may fix a lower amount.

33 b. Notwithstanding the provisions of R.S.31:1-1 to the contrary,
34 a credit union may charge, contract for, and receive interest on loans
35 at a rate or rates agreed to by the credit union and the member. A
36 credit union may charge late fees and lawful fees paid to any public
37 officer for filing, recording, or releasing a document, and may charge
38 collection fees, not to exceed 20% of the principal balance and interest
39 outstanding, which may be added to the principal balance of any loan
40 placed for collection after default thereon.

41 c. A credit union shall have a lien on the shares, share certificates,
42 deposits, deposit certificates, and accumulated interest or dividends of
43 a member in any individual, joint, or trust account, for any sum past
44 due the credit union from the member or for any loan endorsed by him.
45 The credit union shall have a right of immediate setoff with respect to
46 these accounts.

1 d. Notwithstanding any other provision of law to the contrary, in
2 the case of any loan in which a credit card is used to advance funds or
3 to purchase goods or services, a credit card agreement may provide
4 that the credit union may at any time, or from time to time, change the
5 terms of the agreement, including the terms governing the periodic
6 interest rate, calculation of interest or the method of computing the
7 required amount of periodic installment payments, provided however,
8 that:

9 (1) the periodic interest rate shall not be changed more than once
10 in each billing cycle;

11 (2) any change in the periodic interest rate shall correspond to the
12 movement of a market interest rate index specified in the contract
13 which is readily verifiable by the borrower and beyond the control of
14 the credit union;

15 (3) a change in any term of the contract including the periodic
16 interest rate may be permitted to apply to any then-outstanding unpaid
17 indebtedness in the borrower's account including any indebtedness
18 which shall have arisen from advance loans obtained prior to the
19 effective date of the change, provided that fact is clearly and
20 conspicuously disclosed in the contract;

21 (4) if the contract provides for the possibility of change in any term
22 of the contract including the rate, that fact shall be clearly described
23 in plain language, in at least 8-point bold face type on the face of the
24 written notice;

25 (5) no change in any term of the contract or of the index specified
26 in the contract shall be effective unless: (a) at least 15 days prior to the
27 effective date of the change, a written notice has been mailed or
28 delivered to the borrower that clearly and conspicuously describes the
29 change and the indebtedness to which it applies and states that the
30 incurrence by the borrower or another person authorized by him of any
31 further indebtedness under the law to which the contract relates on or
32 after the effective date of the change specified in the notice shall
33 constitute acceptance of the change; and (b) either the borrower
34 agrees in writing to the change or the borrower or another person
35 authorized by him incurs such further indebtedness on or after the
36 effective date of the change stated in such notice, which indebtedness
37 may include outstanding balances; and

38 (6) any borrower who, after receipt of a written notice pursuant to
39 paragraph (5) of this subsection d., chooses not to use the borrower's
40 account or chooses not to indicate acceptance of a change in any term
41 of the contract or of the index specified in the contract, shall be
42 permitted to pay any outstanding unpaid indebtedness in the
43 borrower's account under the plan in accordance with the terms of the
44 contract governing the plan at the time the notice was sent without
45 giving effect to the change.

46 If a borrower accepts a revolving credit plan which provides for an

1 initial introductory indexed interest rate which, at a later date specified
2 in the plan, is followed by an interest rate established pursuant to the
3 requirements of this subsection either using the same index with a
4 different margin or using a different index, the provisions of paragraph
5 (6) of this subsection shall not apply with respect to the the change
6 from the introductory indexed interest rate to the agreed upon
7 subsequent interest rate.

8 (cf: P.L.1984, c.171, s.26)

9

10 7. Section 17 of P.L.1971, c.409 (C.17:16C-44.1) is amended to
11 read as follows:

12 17. (a) Notwithstanding any other law to the contrary, a retail
13 seller, sales finance company, banking institution or other holder may
14 charge, receive and collect a time price differential in each billing
15 period on obligations incurred pursuant to any retail charge account,
16 which shall be determined as specified in the terms of the account,
17 subject to the limitations provided herein. Such time price differential
18 for each monthly billing period shall not exceed the amount resulting
19 from applying the periodic rates provided herein to the greater of the
20 following amounts (including unpaid time price differentials):

21 [(i)](1) The average daily balance of the account for such billing
22 period, or

23 [(ii)](2) The balance of the account at the beginning or end of such
24 billing period.

25 (b) The periodic rate or rates shall not exceed an amount agreed to
26 by the retail seller, sales finance company, banking institution, or other
27 holder and the retail buyer.

28 (c) The [terms of the] retail charge account may provide that the
29 [time price differential may be increased or may be decreased or both
30 from time to time] retail seller, sales finance company, banking
31 institution, or other holder may at any time, or from time to time,
32 change the terms of the retail charge account, including the terms
33 governing the time price differential, calculation of the time price
34 differential or the method of computing the required amount of
35 periodic installment payments; provided, however, that [no increase
36 shall be effective unless: (1) at least 90 days prior to the effective date
37 of the first such increase, or 30 days prior to the effective date of any
38 subsequent increase, a written notice has been mailed or delivered to
39 the retail buyer that clearly and conspicuously describes such change
40 and the indebtedness to which it applies and states that the incurrence
41 by the retail buyer or another person authorized by him of any further
42 indebtedness under the plan to which the agreement relates on or after
43 the effective date of the increase specified in the notice shall constitute
44 acceptance of the increase and (b) either the retail buyer agrees in
45 writing to the increase or the retail buyer or another person authorized
46 by him incurs such further indebtedness on or after the effective date

1 of the increase stated in the notice.]:

2 (1) the time price differential shall not be changed more than once
3 in each billing cycle;

4 (2) any change in the time price differential shall correspond to the
5 movement of a market interest rate index specified in the retail charge
6 account which is readily verifiable by the retail buyer and beyond the
7 control of the retail seller, sales finance company, banking institution,
8 or other holder;

9 (3) a change in any term of the retail charge account including the
10 time price differential may be permitted to apply to any
11 then-outstanding unpaid indebtedness in the retail buyer's account
12 including any indebtedness which shall have arisen from advance loans
13 obtained prior to the effective date of the change, provided that fact
14 is clearly and conspicuously disclosed in the retail charge account;

15 (4) if the retail charge account provides for the possibility of
16 change in any term of the retail charge account including the time price
17 differential, that fact shall be clearly described in plain language, in at
18 least 8-point bold face type on the face of the written notice;

19 (5) no change in any term of the retail charge account or of the
20 index specified in the retail charge account shall be effective unless: (a)
21 at least 15 days prior to the effective date of the change, a written
22 notice has been mailed or delivered to the retail buyer that clearly and
23 conspicuously describes the change and the indebtedness to which it
24 applies and states that the incurrence by the retail buyer or another
25 person authorized by him of any further indebtedness under the law to
26 which the retail charge account relates on or after the effective date of
27 the change specified in the notice shall constitute acceptance of the
28 change; and (b) either the retail buyer agrees in writing to the change
29 or the retail buyer or another person authorized by him incurs such
30 further indebtedness on or after the effective date of the change stated
31 in such notice, which indebtedness may include outstanding balances;
32 and

33 (6) any retail buyer who, after receipt of a written notice pursuant
34 to paragraph (5) of this subsection (c), chooses not to use the retail
35 buyer's account or chooses not to indicate acceptance of a change in
36 any term of the retail charge account or of the index specified in the
37 retail charge account, shall be permitted to pay any outstanding unpaid
38 indebtedness in the retail buyer's account under the plan in accordance
39 with the terms of the retail charge account governing the plan at the
40 time the notice was sent without giving effect to the change.

41 If a retail buyer accepts a retail charge account which provides for
42 an initial introductory indexed time price differential which, at a later
43 date specified in the account, is followed by a time price differential
44 established pursuant to the requirements of this subsection either using
45 the same index with a different margin or using a different index, the
46 provisions of paragraph (6) of this subsection shall not apply with

1 respect to the the change from the introductory indexed time price
2 differential to the agreed upon subsequent time price differential.

3 The provisions of this [paragraph] subsection permitting an increase
4 in the time price differential shall not apply in the case of an agreement
5 which expressly prohibits changing of the time price differential or
6 which provides limitations on changing of the time price differential
7 which are more restrictive than the requirements of this [paragraph]
8 subsection. If the terms of the retail charge account provide for the
9 possibility of an increase or decrease, or both, in the time price
10 differential, that fact shall be clearly described in plain language, in at
11 least 8-point bold face type on the face of the written notice.

12 (d) Notwithstanding the foregoing limitation, if the terms of the
13 account so provide, the time price differential may be computed on the
14 median amount within a specified range. Such time price differential
15 for each monthly billing period shall not exceed the amount resulting
16 from applying the respective periodic rates specified [above] in
17 subsection (a) to the median amount within the specified range in
18 which the greater of the amounts specified in paragraphs[(i)](1) and
19 [(ii)](2) of subsection (a) of this section is included; provided, subject
20 to the classifications and differentiations as may reasonably be
21 established by the retail seller, sales finance company, banking
22 institution or other holder, the same time price differential is charged
23 on all balances within the specified range and provided further that the
24 time price differential determined by applying the respective periodic
25 rates specified [above] in subsection (b) to the median amount within
26 the range does not exceed by more than 8% the amount of the time
27 price differential determined by applying the respective periodic rates
28 specified [above] in subsection (b) to the lowest amount in the range.

29 [(b)](e) If the billing period is not monthly, the maximum periodic
30 rate shall be that rate which bears the same relation to the respective
31 periodic rates per month specified above as the number of days in the
32 billing period bears to 30.

33 [(c)](f) Notwithstanding the [limitation] limitations provided in
34 [(a) above] this section, for any monthly billing period in which a time
35 price differential may be charged pursuant to the terms of the account
36 a minimum time price differential of not more than \$0.50 may be
37 charged; if the billing period is not monthly, a minimum time price
38 differential may be charged in such amount which bears the same
39 relation to \$0.50 as the number of days in the billing period bears to
40 30.

41 (cf: P.L.1981, c.103, s.14)

