

ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2939

STATE OF NEW JERSEY

DATED: JUNE 12, 1997

The Assembly Financial Institutions Committee reports favorably and with amendments, Assembly Bill No. 2939.

This bill, as amended, repeals existing Uniform Commercial Code Chapter 5 Letters of Credit and replaces it with Uniform Commercial Code Revised Chapter 5. The revision is a product of the National Conference of Commissioners on Uniform State Laws and has been adopted in 14 states. The New Jersey Law Revision Commission has reviewed Revised Chapter 5 to determine its suitability for New Jersey, and has reported that it would improve our commercial law.

Revised Chapter 5 updates existing law to accommodate changes in technology in the banking industry. It also settles several ambiguities in current law and conforms domestic law as applied through this chapter of the U.C.C. to the international standards and practices governing letters of credit.

This bill contains two provisions recommended by the New Jersey Law Revision Commission which deviate from the Official Text of Revised Chapter 5. First, subsection e. of 12A:5-111 makes the award of attorney's fees and expenses of litigation discretionary with the court rather than mandatory. This deviation reflects well-established New Jersey principles on allocation of legal costs. Each party bears its own attorney's fees and expenses of litigation. Second, subsection e. of 12A:5-108 clarifies that the court determines standard banking practices regarding letters of credit but does not decide disputed questions of fact when the case is tried to a jury. This deviation is not a change in meaning of the Official Text but corrects an ambiguity of language in that text.

Letters of credit are an important payment instrument for business firms both in domestic and international transactions. Revised Chapter 5 modernizes relevant New Jersey law and creates an efficient legal environment for the letter of credit industry.

The committee amended the bill to clarify that this bill applies only to letters of credit issued on and after its effective date.