

(CORRECTED COPY)  
P.L. 1997, CHAPTER 12, *approved January 27, 1997*  
Assembly, No. 2007 (*Second Reprint*)

1 AN ACT concerning open and closed end loans and amending  
2 P.L.1985, <sup>1</sup>[c.85] c.81 and repealing section 25 of P.L.1985, c.81<sup>1</sup>.

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

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

30 2. Section 9 of P.L.1985, c.81 (c.17:3B-12) is amended to read as

**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:**

<sup>1</sup> Assembly AFI committee amendments adopted May 13, 1996.

<sup>2</sup> Senate SSM committee amendments adopted October 7, 1996.

1 follows:

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

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

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

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

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

21 e. On a secured loan, charge and collect the actual costs of filing  
22 or recording the instrument of security, or notice or abstract thereof,  
23 if the filing or recording is authorized by law.

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

25

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

28 10. Revolving credit plan prohibitions. No revolving credit plan  
29 agreement shall contain:

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

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

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

41 d. [A requirement that the credit be secured by real property.]  
42 (Deleted by amendment, P.L. , c. .)

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

44

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

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

8 b. The lender shall notify each affected borrower of any  
9 amendment pursuant to subsection a. by mailing or delivering to the  
10 borrower, at least [30] <sup>2</sup>[15] 30<sup>2</sup> days before the effective date of the  
11 amendment, a clear and conspicuous written notice which shall  
12 describe the amendment and the existing terms of the agreement  
13 affected by the amendment and shall also set forth the effective date  
14 of the amendment and the pertinent information contemplated by the  
15 following provisions of this section. If the amendment has the effect  
16 of increasing the interest or other charges to be paid by the borrower  
17 by changing the method of calculating interest or the index used to  
18 calculate the interest, the amendment shall become effective [only if  
19 the borrower uses the plan after a date specified in the notice which is]  
20 <sup>1</sup>only if the borrower uses the plan after a date specified in the notice  
21 which is<sup>1</sup> at least [30] <sup>2</sup>[15] 30<sup>2</sup> days after the giving of the notice [,  
22 but which need not be the date the amendment becomes effective, by  
23 making a purchase or obtaining a loan, or if the borrower indicates to  
24 the lender in writing the borrower's express agreement to the  
25 amendment, and the amendment may become effective as to a  
26 particular borrower as of the first day of the billing period during  
27 which the borrower so used the borrower's account or so indicated  
28 agreement to the amendment. Any borrower who fails to use the  
29 borrower's account or so to indicate agreement to an amendment shall  
30 be permitted to pay the outstanding unpaid indebtedness in the  
31 borrower's account under the plan in accordance with the terms of the  
32 agreement governing the plan without giving effect to the amendment]  
33 <sup>1</sup>, but which need not be the date the amendment becomes effective,  
34 by making a purchase or obtaining a loan, or if the borrower indicates  
35 to the lender in writing the borrower's express agreement to the  
36 amendment, and the amendment may become effective as to a  
37 particular borrower as of the first day of the billing period during  
38 which the borrower so used the borrower's account or so indicated  
39 agreement to the amendment. Any borrower who fails to use the  
40 borrower's account or so to indicate agreement to an amendment shall  
41 be permitted to pay the outstanding unpaid indebtedness in the  
42 borrower's account under the plan in accordance with the terms of the  
43 agreement governing the plan without giving effect to the  
44 amendment<sup>1</sup>.

45 For purposes of this section a variation in periodic percentage rates  
46 of interest in accordance with the terms of the index established in the

1 revolving credit plan agreement [and notice provided pursuant to  
2 section 25] shall not be considered to be an amendment.

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

4

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

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

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

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

44 a. Charge and collect the actual costs of filing or recording the  
45 instrument of security, or notice or abstract thereof, if the filing or  
46 recording is authorized by law.

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

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

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

12     18. Insurance. A lender under a closed or open end credit  
13 agreement may:

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

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

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

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

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25     <sup>1</sup>[8. Section 25 of P.L.1985, c.81 (C.17:3B-28) is amended to read  
26 as follows:

27     25. A lender shall notify a borrower by mail of any variations in the  
28 periodic percentage rate of interest pursuant to section [5 or section]  
29 15 and of any change in the amount of periodic payment or term or  
30 both, resulting from a variation in the periodic percentage rate of  
31 interest pursuant to section 15. Any variation or change shall not take  
32 effect until at least 30 days and not more than 60 days after the date  
33 of the notice to the borrower. The notice may be provided to the  
34 borrower in a periodic bill or statement. If there is an increase in the  
35 periodic payment as provided for in subsection b. of section 15, the  
36 lender shall so notify the borrower. The notice period shall be uniform  
37 for both increases and decreases in the periodic percentage rate of  
38 interest or change in the amount of periodic payment or term or both.

39 (cf: P.L.1985, c.81, s.25)]<sup>1</sup>

40  
41     <sup>1</sup>8. Section 25 of P.L.1985, c.81 (C.17:3B-28) is repealed.<sup>1</sup>

42  
43     9. This act shall take effect immediately.

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3 Makes certain changes in the "Market Rate Consumer Loan Act."