

CHAPTER 33

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

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

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

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

C.17:3B-8 Periodic percentage rates.

5. Periodic percentage rates. If the agreement governing the revolving credit plan provides that the periodic percentage rates of interest under the plan may increase or decrease, the increase or decrease shall take place only in correspondence with the movement of the market interest rate index specified in the revolving credit plan agreement, which index shall be readily verifiable by the borrower and beyond the control of the lender. Periodic percentage rate increases, based on a rise in the interest rate index, may be made at the option of the lender. Periodic percentage rate decreases shall be made whenever there is a decrease in the interest rate index which results in an interest rate which is less than the interest rate then applicable to the note or loan, except that the revolving credit plan agreement may stipulate a percentage decrease in the interest rate index below which a corresponding decrease in the periodic percentage rate need not be made by the lender, provided that the index decrement shall be the same as the index increment used for interest rate increases. Interest rate increases may, and interest rate decreases shall, apply to all outstanding unpaid indebtedness under the plan on or after the effective date of the rate variation, as provided in the plan agreement.

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

C.17:3B-12 Loans under a revolving credit plan.

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

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

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

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

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

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

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

C.17:3B-13 Revolving credit plan prohibitions.

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

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

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

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

d. (Deleted by amendment, P.L.1997, c.12.)

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

C.17:3B-15 Changes in terms.

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

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

For purposes of this section a variation in periodic percentage rates of interest in accordance with the terms of the index established in the revolving credit plan agreement shall not be considered to be an amendment.

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

C.17:3B-18 Periodic percentage rates.

15. Periodic percentage rates. The periodic percentage rates of interest charged and collected with respect to a loan under a closed end credit agreement may, subject to any limitations set forth in the loan agreement, vary in accordance with the market interest rate index specified in the loan agreement, which index shall be readily verifiable by the borrower and beyond the control of the lender. Periodic percentage rate increases, based on a rise in the interest rate index, may be made at the option of the lender. Periodic percentage rate decreases shall be made whenever there is a decrease in the interest rate index which results in an interest rate which is less than the interest rate then applicable to the note or loan, except that the loan agreement may stipulate a percentage decrease below which a corresponding decrease in the periodic percentage rate need not be made by the lender, provided the index decrement shall be the same as the index increment used for interest rate increases. Interest rate increases may, and interest rate decreases shall, apply to any outstanding and unpaid loan balances on or after the effective date of the rate variation. Upon an increase in the rate of interest, the term of the note shall be extended as necessary to provide for payment of the balance due without any increase in the amount of each of the borrower's periodic payments, except that the periodic payments may be increased, if either a. the agreement so provides or the parties agree to the increase in writing, or b. if the

periodic payment amounts would not be sufficient to reduce the principal amount due, the lender, no sooner than 30 days after notifying the borrower of that fact, may require that the periodic payments be increased, or that there be a combination of an extended term and increased periodic payments.

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

C.17:3B-19 Additional charges.

16. Additional charges. If the closed end loan agreement on a secured loan so provides, a lender may:

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

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

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

C.17:3B-21 Insurance.

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

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

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

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

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

C.17:9A-18.1 Persons ineligible to serve as officer, director, employee.

1. Except with the written consent of the commissioner, no person shall serve as an officer, director or employee of a bank, savings bank or bank holding company if (a) that person is convicted of any crime involving dishonesty or breach of trust, or (b) that person is prohibited from serving or continuing to serve in such capacity pursuant to 12 U.S.C. §1829.

10. Section 60 of P.L.1948, c.67 (C.17:9A-60) is amended to read as follows:

C.17:9A-60 Definitions.

60. Definitions.

For the purposes of this article,

(1) "Person" means an individual, partnership, corporation, association or body politic, or any similar entity or organization;

(2) "Investment securities" means those marketable corporate obligations in the form of bonds, debentures or similar instruments as are commonly known as investment securities, under such further definition of investment securities as may by regulation be prescribed by the commissioner;

(3) (Deleted by amendment, P.L.1997, c.33.)

(4) (Deleted by amendment, P.L.1997, c.33.)

(5) (Deleted by amendment, P.L.1997, c.33.)

(6) (Deleted by amendment, P.L.1997, c.33.)

(7) (Deleted by amendment, P.L.1997, c.33.)

(8) (Deleted by amendment, P.L.1997, c.33.)

(9) "Capital funds" of a bank or savings bank means the aggregate of the unimpaired capital

stock, surplus and undivided profits of the bank or savings bank plus all other funds which are authorized by law to be included in capital funds for the purposes of this article. The commissioner may, by regulation, provide that contingent reserves of a bank or savings bank, as defined in such regulation, may be included in the capital funds of a bank or savings bank for the purposes of this article;

(10) "Loans and extension of credit" means a bank's or savings bank's direct or indirect advance of funds to or on behalf of a borrower based on an obligation of the borrower to repay the funds or repayable from specific property pledged by or on behalf of the borrower;

(11) "Borrower" means a person who is named as a borrower or debtor in a loan or extension of credit. Loans or extensions of credit to one borrower shall be attributed to another person and each person shall be deemed a borrower: (a) when proceeds of a loan or extension of credit are to be used for the direct benefit of the other person, to the extent of the proceeds so used; or (b) when a common enterprise is deemed to exist between the persons.

11. Section 62 of P.L.1948, c.67 (C.17:9A-62) is amended to read as follows:

C.17:9A-62 Limitations on liability.

62. Limitations on Liability.

A. The total loans and extensions of credit by a bank or savings bank outstanding to one borrower at one time and not fully secured by collateral having a market value at least equal to the amount of the loans and extensions of credit shall not exceed 15 percent of the capital funds of the bank or savings bank.

B. The total loans and extensions of credit by a bank or savings bank outstanding to one borrower at one time and fully secured by readily available marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding shall not exceed 10 percent of the capital funds of the bank or savings bank. This limitation shall be separate from and in addition to the limitation contained in subsection A of this section. If a bank's or savings bank's lending limit calculated under this subsection and under subsection A of this section is less than \$500,000, the bank or savings bank may nevertheless have total loans and extensions of credit outstanding to one borrower at one time not to exceed \$500,000.

C. Except as the commissioner may otherwise prescribe from time to time by regulation promulgated pursuant to subsection H of this section, the total loans and extensions of credit to a person by a bank or savings bank shall not be subject to any limitations imposed by this article, to the extent that loans and extensions of credit are secured by direct or indirect obligations of the United States which have a face or par value at least equal to the amount of such loans and extensions of credit, and which are fully guaranteed as to principal and interest by the United States.

D. Except as the commissioner may otherwise prescribe from time to time by regulation promulgated pursuant to subsection H of this section, loans and extensions of credit to, and investments in the obligations of any municipality or school district of this State may equal but not exceed 100% of the capital funds of a bank.

E. The commissioner may, from time to time, approve the obligations of any other state of the United States, or of any political or municipal or county subdivision or instrumentality thereof, or of any political subdivision or instrumentality of a municipality or county of this State, other than a school district, or of the Port Authority of New York and New Jersey or other instrumentality of two or more states or of the United States, or loans to any such other state, or to such subdivision, or instrumentality, and, unless the commissioner, acting pursuant to subsection H of this section prescribed otherwise by regulation, loans and extensions of credit may be made to, and investments may be made in the obligations of any such other State, or of any such subdivision or instrumentality in excess of 15 % but not in excess of 25% of the capital funds of a bank or savings bank.

F. Except as the commissioner may otherwise prescribe from time to time by regulation promulgated pursuant to subsection H of this section, the total amount of investment securities of any one person held by a bank or savings bank for its own account, other than investments

specified in paragraphs (1) and (2) of section 61 and subsections D and E of this section, shall not exceed 15 % of the capital funds of the bank or savings bank.

G. In determining whether the total loans and extensions of credit made to any person are within the limitations imposed by this article, a bank or savings bank and its directors, officers and employees may rely upon, and be protected in relying upon, the written statements or representations of such person, made to induce such bank or savings bank to permit such loans and extensions of credit to be made.

H. The commissioner may, from time to time, make, amend and repeal regulations (1) imposing a limitation, expressed in terms of a percentage of capital funds, upon loans and extensions of credit secured as specified in subsection C of this section, and (2) decreasing, increasing, or removing entirely the limitations on loans and extensions of credit imposed by this article upon the loans and extensions of credit, obligations and investments specified in subsections A, B, D, E and F of this section. Regulations made pursuant to this section shall be directed toward creating and maintaining substantial equality between State banks and savings banks and national banks, to the end that no class or group of banks or savings banks shall have any substantial competitive advantage over another. When not defined in this article or in regulations promulgated by the commissioner, terms used in this article shall be construed in a manner consistent with their definition by the Comptroller of the Currency, or any other appropriate federal regulatory agency.

12. Section 63 of P.L.1948, c.67 (C.17:9A-63) is amended to read as follows:

C.17:9A-63 Exempt transactions.

63. Exempt transactions.

A. A bank or savings bank shall not be in violation of this article if the loans and extensions of credit to a person incurred under any prior law repealed or superseded by this act exceed the limitations imposed by this article.

B. A bank or savings bank shall not be in violation of this article if, at any time when a bank or savings bank makes a loan or extension of credit to a person, the total loans and extensions of credit to such person, including the loan or extension of credit then made, do not or did not exceed the limitations imposed by this article, notwithstanding that, subsequent to the making of any such loan or extension of credit, circumstances other than the making of an additional loan or extension of credit, cause the total loans and extensions of credit to such person to exceed the limitations imposed by this article.

C. Notwithstanding any provision of this article, a bank or savings bank may, with the prior approval of the commissioner, do any act necessary to preserve or protect any loan or extension of credit, obligation or investment held by it, or any security for such loan or extension of credit or obligation, even though such act causes the total loans and extensions of credit to any person to exceed the limitations imposed by this article; provided, that in no case shall the commissioner approve any act pursuant to this subsection which would cause the total loans and extensions of credit to any person to exceed the limitations imposed by this article by more than fifty percent of such limitations.

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

C.17:9A-110 Directors; other committees.

110. Directors; other committees. The bylaws of a bank may provide for other committees of the board of directors in addition to the committees elsewhere in this act authorized. Not less than a majority of the members of any such other committee shall be directors. Any or all of the remaining members of any such other committee may be directors or may be officers of the bank who are not directors. Each committee shall have the authority to take any action on behalf of the board that may be delegated to the committee in the bylaws or by resolution of the board. The minutes of each committee authorized to take action on behalf of the board of directors pursuant to this section shall be presented to the board at its next meeting following the meeting of the committee at which such action was taken.

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

C.17:16F-17 Transfer of mortgage loan to purchasing servicing organization.

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

a. (Deleted by amendment, P.L.1997, c.33.)

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

c. The purchasing servicing organization shall issue corrected coupon or payment books, if such are used, not later than 20 days after the first mortgage escrow payment to the purchasing servicing organization is due.

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

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

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

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

- (1) Termination of the contract for servicing the loan for cause;
- (2) Commencement of proceedings for bankruptcy of the servicer; or
- (3) Commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer, or an entity by which the servicer is owned or controlled.

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

C.17:16L-1 Definitions.

1. As used in this act:

a. "Banking institution" means any state or federally chartered bank, savings bank, or savings and loan association, including a federally chartered savings bank;

b. "Commissioner" means the Commissioner of Banking and Insurance;

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

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

C.17:16N-3 New Jersey Consumer Checking Accounts.

3. a. Every depository institution that maintains regular checking accounts in this State shall make available to consumers a New Jersey Consumer Checking Account at all offices of that depository institution where regular checking accounts are offered or available. A New Jersey Consumer Checking Account shall be used primarily for personal, family, or household purposes. No depository institution shall be required to offer a New Jersey Consumer Checking Account at a cost which is below its actual cost to provide such an account. The calculation made by a depository institution of the actual cost of providing a New Jersey Consumer Checking Account shall be determinative in the absence of mathematical error or a request from the commissioner for other data and information deemed relevant or appropriate for evaluating the actual cost of providing a New Jersey Consumer Checking Account. New Jersey Consumer Checking Accounts shall contain the features specified in subsection c. of this section or be an account the features and terms of which have been approved by the commissioner pursuant to subsection d. of this section.

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

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

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

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

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

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

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

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

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

d. (1) Notwithstanding the provisions of subsection c. of this section, a depository institution may establish a New Jersey Consumer Checking Account by submitting an account to the commissioner for approval as a New Jersey Consumer Checking Account by providing the commissioner information which details the features and terms of the account.

(2) The commissioner shall approve or reject the account as a New Jersey Consumer Checking Account within 30 business days of receipt of the information from a depository institution.

(3) If the commissioner does not approve an account as a New Jersey Consumer Checking Account, the commissioner shall provide to the depository institution, in writing, the reasons for the commissioner's decision.

e. The commissioner shall, prior to promulgating regulations pursuant to subsection c. of this section or accepting any account for approval pursuant to subsection d. of this section, review the terms and conditions of the low cost personal checking accounts currently available to consumers in this State and shall consider those terms and conditions in complying with the provisions of subsections c. and d. of this section.

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

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

(2) not be assessed any fee in excess of the usual fee or charge made by the depository

institution to its regular checking account holders.

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

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

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

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

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

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

Maintaining records; generally.

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

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

C.46:38-15 Gifts to minors.

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

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

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

"GIFT UNDER THE NEW JERSEY UNIFORM GIFTS TO MINORS ACT

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

Dated: (signature of donor)

....., (name of custodian) as custodian for said (name of minor) hereby acknowledges receipt of the above described security under the New Jersey Uniform Gifts to Minors Act.

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

(c) If the subject of the gift is money, by paying or delivering it to a broker or a bank for credit to an account in the name of a person eligible to be custodian, followed by substantially the following language: "as custodian for(name of minor) under the New

Jersey Uniform Gifts to Minors Act."

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

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

(f) If the subject of the gift is an interest in a partnership or a limited partnership, by delivering an assignment of the interest to the custodian in his own name, followed by substantially the following language: "as custodian for(name of minor) under the New Jersey Uniform Gifts to Minors Act," and by notifying in writing the other partner or partners in the case of a partnership or the other general partner or partners in the case of a limited partnership and the donee of the gift. In the case in which the assignment is made to the donor in his own name, notification to the other partner or partners in the case of a partnership or to the other general partner or partners in the case of a limited partnership shall constitute the delivery required by this subsection.

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

C.46:38-27 Custodian; powers, duties.

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

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

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

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

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

(f) (Deleted by amendment.)

(g) The custodian may sell, exchange, convert or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote a security which is custodial property in person or by general or limited proxy. He

may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer of a security which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver written instruments which he deems advisable to carry out any of his powers as custodian.

(h) The custodian shall keep all custodial property separate and distinct from his own property in such a manner as to identify it clearly as custodial property. He shall register each security which is custodial property and in registered form in his name, or in the name of a trust company, followed by substantially the following language: "as custodian for (name of minor) under the New Jersey Uniform Gifts to Minors Act." He shall hold all money which is custodial property in an account with a broker or in a bank in his name followed by substantially the following language: "as custodian for (name of minor) under the New Jersey Uniform Gifts to Minors Act."

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

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

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

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

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

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

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

C.46:38-32 Death, renunciation of custodian.

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

C.17:16S-1 Definitions relative to complying with discovery or production of documents; costs; reimbursement.

21. a. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

C.17:16S-2 Bank service fee on orders of execution; definitions.

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

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

For purposes of this section:

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

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

C.17:9A-64.1 Origination, acquisition of mortgage loans by bank, savings bank.

23. A bank or savings bank may originate or acquire mortgage loans secured by a mortgage constituting a lien upon real property or upon a lease of the fee of real property, so long as the bank observes prudent banking practices, including amortization of the loans. The value of any mortgage loan shall not exceed 90 per cent of the appraised value of the mortgaged property, except for a mortgage loan that is less than \$100,000 or as permitted by the Commissioner of Banking and Insurance by regulation. A bank or savings bank shall obtain an appropriate evaluation of the real property collateral that is consistent with safe and sound banking practices.

C.17:9A-71.1 Compliance of bank, savings bank with liability of directors, officers.

24. Any bank or savings bank that is in compliance with Regulation O of the Board of Governors of the Federal Reserve System, 12 C.F.R. s.215 et seq., is deemed to be in compliance with the provisions of sections 71 through 75 of P.L.1948, c.47 (C.17:9A-71 through 17:9A-75).

C.17:16E-1.1 Compliance of bank, savings bank with prohibition on interlocking relationships.

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

C.17:12B-145.1 Origination, acquisition of mortgage loans by association.

26. An association may originate or acquire mortgage loans secured by a mortgage constituting a lien upon real property or upon a lease of the fee of real property, so long as the association observes prudent lending practices, including amortization of the loans. The value of any mortgage loan shall not exceed 90 per cent of the appraised value of the mortgaged property, except for a mortgage loan that is less than \$100,000 or as permitted by the Commissioner of Banking and Insurance by regulation. An association shall obtain an appropriate evaluation of the real property collateral that is consistent with safe and sound banking practices.

C.17:12B-62.1 Association deemed in compliance with prohibition on interlocking relationships.

27. Any association that is in compliance with the federal "Depository Institution Management Interlocks Act," 12 U.S.C. s.3201 et seq. and the federal regulations effectuating that act, 12 C.F.R. s.348, is deemed to be in compliance with the provisions of sections 1 through 6 of P.L.1975, c.265 (C.17:16E-1 et seq.).

28. Section 155 of P.L.1963, c.144 (C.17:12B-155) is amended to read as follows:

C.17:12B-155 Procedure for making other loans.

155. Other loans may be made as follows:

A. Account loans. Loans secured by a pledge of a member's savings account. No such loan shall exceed the withdrawal value of the pledged account. Interest on such loans shall not be charged at a rate in excess of the maximum permitted under the provisions of R.S.31:1-1 unless a higher rate is required by any applicable federal regulation that establishes minimum rates that must be charged on loans secured by savings accounts; in which event, the interest charged shall not be greater than that specified by such federal regulation.

B. Purchase of loans. An association may purchase any mortgage loan, property repair, alteration, improvement or rehabilitation loan, or any other loan which an association is authorized to make.

C. (Deleted by amendment, P.L.1997, c.33.)

D. (Deleted by amendment, P.L.1997, c.33.)

E. Loans otherwise authorized. An association may make any other loan which it may be authorized to make by any law of this State.

F. (Deleted by amendment, P.L.1997, c.33.)

G. Educational loans. In addition to the authority otherwise granted by law for an association to make loans guaranteed or insured in whole or in part by the United States of America or the State of New Jersey, or any instrumentality or agency of either of them, or for which a commitment to so guarantee or insure has been made, an association may make any loans so guaranteed or insured or for which a commitment to so guarantee or insure has been made where such loans are made for the purposes of financing the expenses of higher education. Such loans may be made in accordance with the terms and conditions permitted by the guaranteeing or insuring authority, notwithstanding any other provisions of law limiting interest or other charges or prescribing other terms and conditions.

H. (Deleted by amendment, P.L.1997, c.33.)

I. Secondary mortgage loans. Secondary mortgage loans made pursuant to section 26 of P.L.1997, c.33 (C.17:12B-145.1) shall be repayable in installments under the same terms and conditions as provided for secondary mortgage loan licensees under the "Secondary Mortgage Loan Act," P.L.1970, c.205 (C.17:11A-34 et seq.) only with respect to maximum annual percentage rate of interest. The Commissioner of Banking and Insurance shall have the power, in relation to a "secondary mortgage loan," to adopt, amend, alter or rescind regulations, the requirements of which, in the commissioner's judgment, are necessary for the implementation of this subsection.

J. Mobile homes. An association may invest in mobile or manufactured home chattel paper by making or by buying loans or installment sales contracts on mobile or manufactured homes.

K. Consumer loans.

(1) An association may invest in or make installment loans upon the same terms and conditions prescribed for banks in accordance with Article 12 of the "Banking Act of 1948," P.L.1948, c.67 (C.17:9A-53 et seq.), subject to the limitation established in subsection M. of this section.

(2) In addition, subject to the limitation established in subsection M. of this section, an association may invest in or make secured or unsecured loans for personal, family, or household purposes to the extent and under the conditions permitted by the rules and regulations adopted by the commissioner from time to time. The rate of interest on such loans shall not be in excess of the rate of interest provided for in section 160 of P.L.1963, c.144 (C.17:12B-160) or in excess of any rate of interest for such loans as may be otherwise authorized by law. The commissioner shall promulgate such rules and regulations in substantial conformity with similar rules and regulations of the Federal Home Loan Bank Board.

L. Advance loans. An association may make advance loans upon the same terms and conditions prescribed for banks in accordance with "The Advance Loan Law of 1968," P.L.1959, c.91 (C.17:9A-59.1 et seq.).

M. Limitations on loans and investments. Loans or investments in the following subsections shall not exceed, in the aggregate for each subsection, 20% of the assets of the association, provided that the commissioner may, by regulation, establish an amount in excess of 20% for each subsection if such excess amount is in conformity with federal law or rule or regulation of the Federal Home Loan Bank Board:

(1) (Deleted by amendment, P.L.1997, c.33.)

(2) Secured or unsecured loans for personal, family, or household purposes, and commercial paper and corporate debt securities; provided, however, that no percentage of assets limitation shall apply to the issuance of credit cards or the extension of credit therewith, the investment in property improvement loans as defined in section 158 of P.L.1963, c.144 (C.17:12B-158), or the investment in advance loans as defined in subsection L. of this section.

29. Section 156 of P.L.1963, c.144 (C.17:12B-156) is amended to read as follows:

C.17:12B-156 Investments in additional loans.

156. Investments in additional loans.

A. An association may make additional loans or advances for any purpose expressly or impliedly reserved or provided for in any bond, mortgage or other obligation held by or hereafter acquired by any such association subject to the provisions of subsection D of this section,

otherwise;

B. An association may make additional loans to borrowing members for the purpose of repairs, alterations, or improvements already made or to be made upon real estate owned by such borrowing member, subject to the conditions and limitations of subsection D of this section.

C. An association may make additional loans to borrowing members for the purpose of paying the cost of insurance upon the life of such borrowing member. Such policy of insurance may also include health, accident or disability features. The proceeds of such a policy of insurance shall be applied in accordance with the terms and conditions contained therein; provided, however, the amount of such insurance shall not exceed the amount loaned on the mortgage lien held by the association. Any additional loan made under this subsection shall be made pursuant to the conditions and limitations contained in subsection D of this section.

D. Any additional loan to borrowing members made pursuant to the provisions of this section shall be made subject to the following conditions and limitations:

(1) The real estate securing such an additional loan shall be real estate upon which the association already holds a mortgage lien.

(2) (Deleted by amendment, P.L.1997, c.33.)

(3) (Deleted by amendment, P.L.1997, c.33.)

(4) (Deleted by amendment, P.L.1997, c.33.)

(5) Each such additional loan shall be evidenced by an obligation which shall state the terms on which such loan is made, and the amount thereof shall be added to the amount due on the association's mortgage against such real estate.

(6) The payment of such additional loan shall be secured by the mortgage the association already holds on such real estate.

(7) No search or examination of the title to the mortgaged real estate shall be required.

All persons who acquire any rights in, or liens upon, the mortgaged real estate, subsequent to the recording of any association's mortgage, shall hold such rights and liens subject to the association's right to make such additional loans.

30. Section 168 of P.L.1963, c.144 (C.17:12B-168) is amended to read as follows:

C.17:12B-168 Limitations on amounts of real estate loans and investments.

168. Limitations on amounts of real estate loans and investments.

No State association shall make loans or extensions of credit in an amount greater than that permitted for banks and savings banks pursuant to sections 60 through 63 of P.L.1948, c.67 (C.17:9A-60 through 17:9A-63).

Notwithstanding the above limits, the commissioner may adopt, amend, alter or rescind regulations permitting associations to make loans for a greater amount or to increase the percentage limitation hereinabove set forth. The commissioner may give consideration to the size of the association, its reserves and current economic conditions in issuing such regulations. Any loans or investments legally made under the provisions of regulations adopted under the authority granted by this section shall be legal loans or investments if they conform with the regulations in effect at the date of closing or purchase of said loan or investment, notwithstanding the subsequent amendments, alterations, rescissions or repeals of the regulations in effect at the date of such closing or purchase.

31. The following are repealed:

Repealer.

Section 25 of P.L.1985, c.81 (C.17:3B-28);

Sections 64 through 70 of P.L.1948, c.67 (C.17:9A-64 through 17:9A-70);

Section 2 of P.L.1973, c.328 (C.17:9A-65.1);

Section 181 of P.L.1948, c.67 (C.17:9A-181);

Sections 146 through 149 and 151 through 154 of P.L.1963, c.144 (C.17:12B-146 through 17:12B-149 and 17:12B-151 through 17:12B-154);

Section 167 of P.L.1963, c.144 (C.17:12B-167);

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Sections 4, 5 and 6 of P.L.1977, c.1 (C.17:16F-4 through 17:16F-6);
Sections 2, 6, 7 and 8 of P.L.1990, c.69 (C.17:16F-16 and 17:16F-20 through 17:16F-22);
and
P.L.1979, c.87 (C.56:11-10 through 56:11-15).

32. This act shall take effect immediately.

Approved March 7, 1997.