

SENATE, No. 1305

STATE OF NEW JERSEY

INTRODUCED JUNE 13, 1996

By Senator INVERSO

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

2

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

5

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

13

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

16 5. Periodic percentage rates. If the agreement governing the  
17 revolving credit plan [so] provides[,] that the periodic percentage  
18 rates of interest under the plan may increase or decrease , the increase  
19 or decrease shall take place only in correspondence with the movement  
20 of the market interest rate index specified in the revolving credit plan  
21 agreement, which index shall be readily verifiable by the borrower and  
22 beyond the control of the lender. Periodic percentage rate increases,  
23 based on a rise in the interest rate index, may be made at the option of  
24 the lender. Periodic percentage rate decreases shall be made whenever  
25 there is a decrease in the interest rate index which results in an interest  
26 rate which is less than the interest rate then applicable to the note or  
27 loan, except that the revolving credit plan agreement may stipulate a  
28 percentage decrease in the interest rate index below which a  
29 corresponding decrease in the periodic percentage rate need not be  
30 made by the lender, provided that the index decrement shall be the  
31 same as the index increment used for interest rate increases. Interest  
32 rate increases may, and interest rate decreases shall, apply to all  
33 outstanding unpaid indebtedness under the plan on or after 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 effective date of the rate variation, as provided in the plan agreement.  
2 (cf: P.L.1985, c.81, s.5)

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

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

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

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

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

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

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

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

29  
30 4. Section 10 of P.L.1985, c.81 (C.17:3B-13) is amended to read  
31 as follows:

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

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

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

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

45 d. [A requirement that the credit be secured by real property.]

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

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

3

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

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

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

37 For purposes of this section a variation in periodic percentage rates  
38 of interest in accordance with the terms of the index established in the  
39 revolving credit plan agreement[and notice provided pursuant to  
40 section 25] shall not be considered to be an amendment.

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

42

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

45 15. Periodic percentage rates. The periodic percentage rates of  
46 interest charged and collected with respect to a loan under a closed

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

31

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

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

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

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

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

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

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

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

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

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

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

15

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

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

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

29

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

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

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

44

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

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

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

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

21       c. The purchasing servicing organization shall issue corrected  
22 coupon or payment books, if such are used, not later than 20 days  
23 after the first mortgage escrow payment to the purchasing servicing  
24 organization is due and shall provide the mortgagor with the name,  
25 address and telephone number of the purchasing servicing organization  
26 and information regarding the purchasing servicing organization's  
27 procedures for responding to questions from a mortgagor.

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

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

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

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

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

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

16

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

19 1. As used in this act:

20 a. "Banking institution" means any State or federally chartered  
21 bank, savings bank, or savings and loan association, including a  
22 federally chartered savings bank;

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

24 c. "Deposit account" means an account in a banking institution  
25 used by the account holder for personal or family purposes, but does  
26 not include an account as defined in the federal "Expedited Funds  
27 Availability Act," 12 U.S.C. §4001 et seq., which account is subject to  
28 the disclosure of funds availability policy requirements as set forth in  
29 12 U.S.C. §4004.

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

31

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

34 3. a. Every depository institution that maintains regular checking  
35 accounts in this State shall make available to consumers a New Jersey  
36 Consumer Checking Account at all offices of that depository  
37 institution where regular checking accounts are offered or available.  
38 A New Jersey Consumer Checking Account shall be used primarily for  
39 personal, family, or household purposes. No depository institution  
40 shall be required to offer a New Jersey Consumer Checking Account  
41 at a cost which is below its actual cost to provide such an account.  
42 The calculation made by a depository institution of the actual cost of  
43 providing a New Jersey Consumer Checking Account shall be  
44 determinative in the absence of mathematical error or a request from  
45 the commissioner for other data and information deemed relevant or  
46 appropriate for evaluating the actual cost of providing a New Jersey

1 Consumer Checking Account. New Jersey Consumer Checking  
2 Accounts shall contain the features specified in subsection c. of this  
3 section or be an account the features and terms of which have been  
4 approved by the commissioner pursuant to subsection d. of this  
5 section.

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

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

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

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

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

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

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

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

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

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

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

36 (b) submitting an account to the commissioner for approval as a  
37 New Jersey Consumer Checking Account by providing the  
38 commissioner information which details the features and terms of the  
39 account.

40 (2) The commissioner shall approve or reject [the] an account  
41 submitted to the commissioner pursuant to subparagraph (b) of  
42 paragraph (1) of this subsection d. as a New Jersey Consumer  
43 Checking Account within 30 business days of receipt of the  
44 information from a depository institution.

45 (3) If the commissioner does not approve an account submitted to  
46 the commissioner pursuant to subparagraph (b) of paragraph (1) of

1 this subsection d. as a New Jersey Consumer Checking Account, the  
2 commissioner shall provide to the depository institution, in writing, the  
3 reasons for ~~his~~ the commissioner's decision.

4 e. The commissioner shall, prior to promulgating regulations  
5 pursuant to subsection c. of this section or accepting any account for  
6 approval pursuant to subparagraph (b) of paragraph (1) of subsection  
7 d. of this section, review the terms and conditions of the low cost  
8 personal checking accounts currently available to consumers in this  
9 State and shall consider those terms and conditions in complying with  
10 the provisions of subsections c. and d. of this section.

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

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

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

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

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

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

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

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

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

37

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

39 46:30B-95. Maintaining records; generally. Every holder required  
40 to file a report under Article 17 of this chapter, as to any property for  
41 which it has obtained the last known address of the owner, shall  
42 maintain a record of the name and last known address of the owner for  
43 ~~10~~ five years after the property becomes reportable, except to the  
44 extent that a shorter time is provided in R.S.46:30B-96 or by rule of  
45 the administrator.

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

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

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

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

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

16

17 "GIFT UNDER THE NEW JERSEY UNIFORM GIFTS TO  
18 MINORS ACT

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

23 (name of minor)  
24 .....  
25 (description of security)

26 Dated: .....  
27 (signature of donor)

28 ....., as custodian for said .....  
29 (name of custodian) (name of minor)

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

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

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

38 (name of minor)

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

40 (d) If the subject of the gift is a life insurance or endowment policy  
41 or an annuity contract, by causing the ownership of the policy or  
42 contract to be registered with the issuing insurance company in the  
43 name of the custodian or in the name of an adult member of the  
44 minor's family or in the name of a guardian of the minor or any  
45 bank or trust company, followed by the words" custodian for

1 ..... under the New Jersey Uniform Gifts to Minors  
2 (name of minor)  
3 Act," and such policy of life insurance or endowment policy or annuity  
4 contract shall be delivered to the person in whose name it is thus  
5 registered as custodian. If the policy or contract is registered in the  
6 name of the donor, as custodian, such registration shall of itself  
7 constitute the delivery required by this act.

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

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

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

28

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

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

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

43 (c) The court, on the application of a parent or guardian of the  
44 minor, or on the application of the minor if he has attained the age of  
45 14 years, may order the custodian to pay over to the minor for  
46 expenditure by him, or to expend on behalf of the minor, so much of

1 or all the custodial property as is necessary for the minor's support,  
2 maintenance, education, general use and benefit.

3 (d) To the extent that the custodial property is not so expended,  
4 the custodian shall deliver or pay it over to the minor when he attains  
5 21 years of age or, if the minor dies before attaining 21 years of age,  
6 the custodian shall thereupon deliver or pay it over to the estate of the  
7 minor. The donor at the time the gift is made may expressly direct  
8 that the custodianship be terminated and the custodial property be paid  
9 over and transferred to the minor at any time after the minor attains  
10 the age of 18 years.

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

18 (f) (Deleted by amendment.)

19 (g) The custodian may sell, exchange, convert or otherwise dispose  
20 of custodial property in the manner, at the time or times, for the price  
21 or prices and upon the terms he deems advisable. He may vote a  
22 security which is custodial property in person or by general or limited  
23 proxy. He may consent, directly or through a committee or other  
24 agent, to the reorganization, consolidation, merger, dissolution or  
25 liquidation of an issuer of a security which is custodial property, and  
26 to the sale, lease, pledge or mortgage of any property by or to such an  
27 issuer, and to any other action by such an issuer. He may execute and  
28 deliver written instruments which he deems advisable to carry out any  
29 of his powers as custodian.

30 (h) The custodian shall keep all custodial property separate and  
31 distinct from his own property in such a manner as to identify it  
32 clearly as custodial property. He shall register each security which is  
33 custodial property and in registered form in his name, or in the name  
34 of a trust company, followed by substantially the following language:  
35 "as custodian for ..... under the New Jersey Uniform  
36 (name of minor)

37 Gifts to Minors Act," He shall hold all money which is custodial  
38 property in an account with a broker or in a bank in his name followed  
39 by substantially the following language: "as custodian for  
40 .....under the New Jersey Uniform Gifts to Minors Act."  
41 (name of minor)

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

46 (j) In addition to the powers given in this act, a custodian has all

1 the powers with respect to the custodial property which a guardian of  
2 the estate would have with respect to property not held as custodial  
3 property.

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

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

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

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

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

21

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

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

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

40

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

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

45 "Governmental unit" means the United States of America, the State  
46 of New Jersey and all its counties, municipalities and school districts,

1 and any authority or other entity established by any of those  
2 governmental units to fulfill a governmental function.

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

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

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

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

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

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

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

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

1 institution receives this notice.

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

7

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

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

20 For purposes of this section:

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

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

27

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

38

39 21. (New section) Any bank that is in compliance with Regulation  
40 O of the Board of Governors of the Federal Reserve System, 12  
41 C.F.R. §215 et seq., is deemed to be in compliance with the provisions  
42 of sections 71 through 75 of P.L.1948, c.47 (C.17:9A-71 through  
43 17:9A-75).

44

45 22. (New section) Any bank that is in compliance with the federal  
46 "Depository Institution Management Interlocks Act," 12 U.S.C. §3201

1 et seq. and the federal regulations effectuating that act, 12 C.F.R.  
2 §348, is deemed to be in compliance with the provisions of sections 1  
3 through 6 of P.L.1975, c.265 (17:16E-1 et seq.).

4  
5 23. The following are repealed:

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

7 Sections 64 through 70 of P.L.1948, c.67 (C.17:9A-64 through  
8 17:9A-70;

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

10 Sections 4, 5 and 6 of P.L.1977, c.1 (C.17:16F-4 through 17:16F-  
11 6);

12 Sections 2, 6, 7 and 8 of P.L.1990, c.69 (C.17:16F-16 and 17:16F-  
13 20 through 17:16F-22); and

14 P.L.1979, c.87 (C.56:11-10 through 56:11-15).

15  
16 24. This act shall take effect immediately.

17  
18  
19 STATEMENT

20  
21 This bill provides for changes in current banking law to reduce  
22 duplication and conflict with federal law and to reduce unnecessary  
23 and burdensome regulations which increase the cost of doing banking  
24 business in this State.

25 More specifically, the bill makes the following changes in the  
26 "Market Rate Consumer Loan Act," P.L.1985, c.81 (C.17:3B-1 et  
27 seq.): requires any revolving credit plan that provides that the periodic  
28 rate of interest under the plan may increase or decrease, to provide in  
29 the revolving credit plan agreement that the increase or decrease will  
30 take place only in relation to a market rate index specified in the plan;  
31 places open-end home equity loans under the act by permitting real  
32 property to be used as security for loans made under the act; permits,  
33 if the agreement so provides, charging additional fees such as, but not  
34 limited to, minimum charges, annual fees, check charges, maintenance  
35 charges, and late charges; changes the requirement to provide notice  
36 of an amendment to a revolving credit plan from 30 to 15 days in  
37 advance of the effective date of the proposed amendment, which  
38 number of days is consistent with the requirement of federal  
39 regulation; and repeals section 25 of P.L.1985, c.85 (C.17:3B-28)  
40 concerning notice of change in a periodic percentage rate and the time  
41 period before which any such change can become effective.

42 To conform State law with federal law in other respects, the bill:  
43 clarifies the factors that would prohibit a person from serving as an  
44 officer, director or employee of a bank, savings bank or bank holding  
45 company; permits the use of committees of the board of directors of  
46 a bank to take any action on behalf of the board that may be delegated

1 to the committee in the by-laws or by resolution of the board; provides  
2 that any bank that is in compliance with Regulation O of the Board of  
3 Governors of the Federal Reserve System, 12 C.F.R. §215 et seq.,  
4 concerning loans to officers, directors and principle shareholders, is  
5 deemed to be in compliance with sections 71 through 75 of P.L.1948,  
6 c.47 (C.17:9A-71 through 17:9A-75); removes certain requirements  
7 with respect to notice on the sale, assignment or transfer of the  
8 servicing of a mortgage loan which are preempted by federal law;  
9 conforms the State funds availability law with federal law and its  
10 preemptions; provides that a depository institution that is in  
11 conformance with federal requirements with respect to "lifeline  
12 accounts" also meets the requirements of the New Jersey Consumer  
13 Checking Account; and provides that a bank that is in compliance with  
14 the federal "Depository Institution Management Interlocks Act," 12  
15 U.S.C. §3201 et seq. and the federal regulations implementing that  
16 act, 12 C.F.R. §348, is deemed to be in compliance with the  
17 provisions of sections 1 through 6 of P.L.1975, c.265 (17:16E-1 et  
18 seq.).

19 The bill also amends the "New Jersey Uniform Gifts to Minors Act"  
20 to make it similar to the "New Jersey Uniform Transfers to Minors  
21 Act" by permitting trust companies to be designated as custodians with  
22 respect to the gift of a security.

23 The bill provides for the recovery of expenses incurred by  
24 depository institutions as a result of responding to: (1) a person, other  
25 than a governmental unit, who is a party to a lawsuit and is seeking  
26 discovery or production of evidence as permitted by and pursuant to  
27 the Rules Governing the Courts of the State of New Jersey or other  
28 State authority or the Federal Rules of Civil Procedure and (2) an  
29 execution on an account pursuant to N.J.S.2A:17-57 et seq.

30

31

32

33

34 Provides regulatory relief for banks and savings banks.