SENATE STATE MANAGEMENT, INVESTMENT AND FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

SENATE, No. 1688

STATE OF NEW JERSEY

DATED: NOVEMBER 25, 1996

The Senate State Management, Investment and Financial Institutions Committee reports favorably Senate Bill No. 1688.

This bill enacts the "New Jersey Licensed Lender Act." The provisions of this bill incorporate most of what is already in three separate laws: the "Consumer Loan Act," R.S.17:10-1 et seq., which applies to consumer lenders; the "Secondary Mortgage Loan Act," P.L.1970, c.205 (C.17:11A-34 et seq.), which applies to secondary mortgage lenders; and P.L.1981, c.18 (C.17:11B-1 et seq.), which applies to mortgage bankers and brokers.

The bill enables the Division of Banking in the Department of Banking and Insurance to license these lenders under a single act, thus simplifying and unifying the licensing, regulating and supervising process.

The bill permits a person to be licensed to engage in up to four different activities under a single license: consumer lending; secondary mortgage lending; mortgage banking or brokering; and as a sales finance company. The fees charged by the department for issuing such a license are dependent upon the number of activities in which the license indicates the person is permitted to engage.

More specifically, the bill establishes requirements for applying and renewing licenses including: application and licensing fees; education and experience; and net worth and liquid assets. Under the bill, a person who meets the specific requirements for a license may be licensed to engage in that business; in addition, a person may be licensed to engage in more than one business as long as the person meets the requirements for each business. A licensee may establish and operate branch offices as long as each branch office is licensed and the licensee may engage in all the businesses for which that person is licensed at each branch office.

The bill establishes requirements for licensees with respect to records to be kept and annual reports to be filed and requires that all licensees be examined not more than once every 18 months, but authorizes the commissioner to examine a licensee more frequently if the commissioner has reason to believe such an examination is needed.

With respect to mortgage bankers and brokers, the bill:

1. prohibits the use of certain words in the name used by the licensee that might lead consumers to believe the licensee is a depository institution; and the charging or extracting of fees, commissions or charges not otherwise authorized by the act;

2. requires the disbursal of funds in accordance with agreements and in a manner that guarantees that funds dispersed shall be "good funds;"and

3. permits the charging of certain fees including, but not limited to, a credit report fee, an appraisal fee, application fee, commitment fee, warehouse fee, fees necessary to reimburse the mortgage bankers for charges imposed by third parties, and discount points.

With respect to secondary lenders, the bill:

1. requires a certain form for, and certain content in, and prohibits other content from being in, an instrument evidencing a secondary mortgage loan;

2. permits a secondary mortgage lender to make closed- and open-end loans, which may have either a fixed or variable interest rate, and specifies the conditions which have to be met under variable interest rate loans; and

3. provides the specific charges that a secondary mortgage lender may assess in addition to interest including, but not limited to: no more than three discount points; fees with respect to obtaining a clear title; credit report and appraisal fees; recording fees; returned check and late payment fees; and an application fee at closing and, on an open end loan, an annual fee of $50 or 1% of the line of credit, whichever is less.

With respect to consumer lenders, the bill:

1. permits consumer lenders to make closed- and open-end loans with a fixed or variable interest rate, and specifies the conditions which have to be met under both; and

2. permits certain charges including, but not limited to: an amount actually paid a public official for recording of a security interest in connection with security given with a loan; amounts for credit insurance; returned check fee; and an annual fee on open-end accounts, which may not exceed an amount equal to one percent of the line of credit or $50, whichever is less;

The bill sets an expiration date for existing licenses, so that all licenses will expire on July 1, 1997, and have to be renewed to begin the next biennial license period on July 1, 1997, and provides a refund to those licensees whose existing licenses extend beyond July 1, 1997.

This bill changes current law in the following ways: it provides for a simpler and more rational licensing and regulation procedure for the Department of Banking and Insurance in connection with the four businesses for which lenders may be licensed; it provides a changed license fee schedule to take into consideration that a person may be licensed to engage in more than one of these businesses; it provides that the net worth and liquid asset requirements are not cumulative if a person seeks to be licensed in more than one business; it places in

statute, but does not change, the net worth requirements for mortgage bankers, correspondent mortgage bankers, and mortgage brokers; removes the statutory requirement that branch offices of licensees have to have a licensee in that office for supervisory purposes, but authorizes the commissioner by regulation to require such supervision; permits secondary lenders to charge an application fee at closing and, on open end loans, an annual fee, the amount of which cannot exceed $50 or one percent of the line of credit, whichever is less; provides that a secondary lender may change the rate of interest on a variable rate closed-end loan after the first six months of the loan instead of after the first 12 months; and provides for an administrative penalty against consumer lenders who violate the new act's provisions.