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PUBLIC HEARING

before

ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE

ASSEMBLY BILL No. 15 ACS, ASSEMBLY BILL No. 181

ASSEMBLY BILL No. 756, ASSEMBLY BILL No. 1179

ASSEMBLY BILL No. 1180

(Bills concerning community reinvestment by depository institutions; regulation of check cashing businesses; availability of basic banking services; and direct deposit of government benefit payments)

May 14, 1990

Room 368

State House Annex

Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Joseph J. Roberts, Jr., Chairman

Assemblywoman Stephanie R. Bush, Vice Chairperson

Assemblyman George A. Spadaro

Assemblyman John S. Penn

Assemblywoman Elizabeth E. Randall

New Jersey State Library

ALSO PRESENT:

Theodore C. Settle

Office of Legislative Services

Aide, Assembly Financial Institutions Committee

* * * * *

Hearing Recorded and Transcribed by

Office of Legislative Services

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Hearing Unit

State House Annex

CN 068

Trenton, New Jersey 08625



JOSEPH J. ROBERTS, JR.
CHAIRMAN
STEPHANIE R. BUSH
VICE-CHAIRPERSON
GEORGE A. SPADORO
JOHN S. PENN
ELIZABETH E. RANDALL

New Jersey State Legislature
ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE
STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625-0068
(609) 984-0445

NOTICE OF PUBLIC HEARINGS

The Assembly Financial Institutions Committee will hold three public hearings on the following issues--community reinvestment by depository institutions; regulation of check cashing businesses; availability of basic banking services; and direct deposit of government benefit payments--and legislation:

- | | |
|--------------------------------|---|
| A-15
Roberts/Bryant* | Establishes Division of Community Reinvestment in Department of Banking and encourages certain investments in qualifying communities. |
| A-181
Penn | Provides for direct deposit of certain welfare and unemployment compensation payments to certain depository institutions. |
| A-756
Duch/Gill | Regulates certain check cashing activities, mandates community service for certain violations and requires certain actions by Commissioner of Banking. |
| A-1179
Kalik/Roberts | Requires depository institutions to offer certain basic financial services, disclose certain information and, for registered non-customers, to cash certain checks. |
| A-1180
Kalik/Roberts | Requires depository institutions to cash certain checks. |

The hearings will be held on:

***Monday, May 14, 1990 at 10:00 a.m. in Room 368, State House Annex, Trenton;**

Thursday, May 24, 1990 at 10:00 a.m. in the Camden County Freeholder Conference Room, 16th Floor, City Hall, Camden;

Monday, June 4, 1990 at 10:00 a.m. in the College Center Lounge, Upsala College, East Orange.

The public may address comments and questions to Theodore C. Settle, Committee Aide, and persons wishing to testify should contact Cynthia D. Petty, secretary, at (609) 984-0445. Those persons presenting written testimony should provide 12 copies to the committee on the day of the hearing.

Revised 05/09/90

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 15

STATE OF NEW JERSEY

By Assemblymen ROBERTS and BRYANT

AN ACT concerning community reinvestment and amending and supplementing P.L. 1970, c. 236.

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

1. Section 1 of P.L. 1970, c. 236 (C. 17:9-41) is amended to read as follows:

1. In this act, unless the context otherwise requires:

"Appropriate federal financial supervisory agency" means:

a. The Comptroller of the Currency with respect to federally chartered banks;

b. The Board of Governors of the Federal Reserve System with respect to State chartered banks which are members of the Federal Reserve System and bank holding companies;

c. The Federal Deposit Insurance Corporation with respect to State chartered banks and savings banks which are not members of the Federal Reserve System; and

d. The Director of the Office of Thrift Supervision, in the case of an association the deposits of which are insured by the Federal Deposit Insurance Corporation, and a savings and loan holding company.

"Association" means any State or federally chartered savings and loan association;

"Capital funds" means (a) in the case of a State bank or national bank, the aggregate of the capital stock, surplus and undivided profits of the bank; (b) in the case of a savings bank, the aggregate of the capital deposits, if any, and the surplus of the savings bank; and (c) in the case of an association, the aggregate of all reserves required by any law or regulation, and the undivided profits, if any, of the association;

"Commissioner" means the Commissioner of Banking;

"CRA" means the "Community Reinvestment Act of 1977," Pub.L. 95-128 (12 U.S.C. §2901 et seq.).

"Defaulting depository" means a public depository as to which an event of default has occurred;

"Depository institution" means a State bank, a national bank, a savings bank or an association located in this State;

"Eligible collateral" means: (a) Obligations of any of the following:

(1) The United States;

(2) Any agency or instrumentality of the United States, including, but not limited to, the Student Loan Marketing Administration, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Housing Administration and the Small Business Administration;

(3) The State of New Jersey or any of its political subdivisions;

(4) Any other governmental unit; or

(b) Obligations guaranteed or insured by any of the following, to the extent of that insurance or guaranty:

(1) The United States;

(2) Any agency or instrumentality of the United States, including, but not limited to, the Student Loan Marketing Administration, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Housing Administration and the Small Business Administration;

(3) The State of New Jersey or any of its political subdivisions; or

(c) Obligations now or hereafter authorized by law as security for public deposits;

(d) Obligations in which the State, political subdivisions of the State, their officers, boards, commissions, departments and agencies may invest pursuant to an express authorization under any law authorizing the issuance of those obligations; or

(e) Any other obligations as may be approved by the commissioner by regulation or by specific approval;

"Event of default" means issuance of an order of a supervisory authority or of a receiver restraining a public depository from making payments of deposit liabilities;

"Governmental unit" means any county, municipality, school district or any public body corporate and politic created or established under any law of this State by or on behalf of any one or more counties or municipalities, or any board, commission, department or agency of any of the foregoing having custody of funds;

"Maximum liability" of a public depository means, with respect to any event of default, a sum equal to 5% of the average daily balance of collected public funds held on deposit by the depository during the six-month period ending on the last day of the month next preceding the occurrence of such event of default; "Net deposit liability" means the deposit liability of a defaulting depository to a governmental unit after deduction of any deposit insurance with respect thereto;

"Obligations" means any bonds, notes, capital notes, bond anticipation notes, tax anticipation notes, temporary notes, loan bonds, mortgage related securities, or mortgages;

"Public depository" means a [State bank, a national bank, a savings bank or an association located in this State] depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation [or the Federal Savings and Loan Insurance Corporation, as the case may be.] and which receives or holds public funds on deposit;

"Public funds" means the funds of any governmental unit, but does not include deposits held by the State of New Jersey Cash Management Fund;

"Valuation date" means December 31 and June 30.

(cf: P.L.1986, c.161, s.1)

2. Section 2 of P.L.1970, c.236 (C.17:9-42) is amended to read as follows:

2. No governmental unit shall deposit public funds in a public depository unless;

a. Such funds are secured in accordance with [this act] P.L.1970, c.236 (C.17:9-41 et seq.); and

b. The public depository is a depository institution which is in compliance with section 3 of P.L. , c. (C.) (now pending before the Legislature as this bill).

(cf: P.L.1970, c.236, s.2)

3. (New section) a. Beginning on July 1, 1990 and until June 30, 1992, only those depository institutions receiving a CRA rating of outstanding or satisfactory from their appropriate federal supervisory agency shall be eligible to be a public depository pursuant to section 2 of P.L. 1970, c. 270 (C. 17:9-42).

b. Beginning on July 1, 1992 and thereafter, only those depository institutions that receive a CRA rating of outstanding from their appropriate federal supervisory agency shall be eligible to be a public depository pursuant to section 2 of P.L. 1970, c. 270 (C. 17:9-42). A depository institution that received an outstanding or satisfactory CRA rating after July 1, 1990 and which has been designated a public depository by the commissioner, may remain as such until a new CRA rating is received from its appropriate federal supervisory agency on or after July 1, 1992.

c. Notwithstanding the provisions of subsections a. and b. of this section, a depository institution which is a public depository prior to July 1, 1990, may continue as such until it receives a CRA rating on or after July 1, 1990.

4. (New section) Beginning on and after July 1, 1990, each depository institution which receives a CRA rating from its appropriate federal supervisory agency, shall send a copy of the public section of the written evaluation to the commissioner within 30 days of receipt. The commissioner shall compile all the information in these reports in a way that will be useful to community interest groups and disseminate a notice biannually to all daily and weekly newspapers of general circulation in the State that this information is available from the Department of Banking to the public upon request. The commissioner may set a reasonable fee to be charged for each report sent out by the department.

5. (New section) Each depository institution whose CRA rating received after July 1, 1990 indicates substantial noncompliance in meeting community credit needs, shall consult with the Commissioners of Banking and the Department of Community Affairs to establish a program intended to increase its compliance in meeting community credit needs and change its next CRA rating to satisfactory.

6. (New section) The commissioner shall prepare a report on an annual basis for the appropriate committees of the Legislature containing the CRA rating of each depository institution for which it has a rating, the date of the rating and whether consultation has taken place with each depository institution which received a CRA rating indicating substantial noncompliance in meeting community credit needs. This report shall be sent to the appropriate committees of the Legislature within 60 days of the beginning of a new calendar year.

7. (New section) The commissioner may promulgate regulations, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), necessary to implement the provisions of this act.

8. This act shall take effect immediately.

BANKING AND FINANCIAL INSTITUTIONS

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblyman PENN

1 AN ACT to require the direct deposit of certain public assistance
2 payments and unemployment compensation and temporary
3 disability benefits payments in certain depository institutions
4 and supplementing Title 17 of the Revised Statutes.

5
6 BE IT ENACTED by the Senate and General Assembly of the
7 State of New Jersey:

8 1. As used in this act:

9 "Account" means a demand deposit account which permits the
10 account holder to make deposits, withdrawals and payments to
11 third parties or others by check or electronic transfer.

12 "Basic checking account" means an account as provided for in
13 section 2 of this act.

14 "Check" means any check, draft, negotiable order of
15 withdrawal, or similar means of making payment or transfers to
16 third parties which is drawn on a depository institution and is
17 payable on demand.

18 "Depository institution" means a State or federally chartered
19 bank, savings bank or savings and loan association offering
20 accounts in this State.

21 "Regular checking account" means an account offered by a
22 depository institution which is held by more natural persons for
23 personal or family use than any other account offered by the
24 institution.

25 "Qualified depository institution" means a depository
26 institution which makes available and maintains basic checking
27 accounts for direct deposits pursuant to sections 3, 4, 5, and 6 of
28 this act.

29 2. a. For purposes of this act, a basic checking account shall
30 provide that the account holder thereof:

31 (1) May not be required to maintain a minimum balance of
32 funds left on deposit in excess of \$25.00;

33 (2) May withdraw funds by check for payment to third parties
34 at least five times within a monthly cycle without charge;

35 (3) May withdraw funds by a method other than check at least
36 five times within a monthly cycle without charge;

37 (4) Shall have no less access to mail banking services than that
38 offered to holders of regular checking accounts at that depository
39 institution;

40 (5) Shall not be assessed a fee or charge in excess of \$2.00
41 within a monthly cycle, plus 50¢ per transaction in excess of the

1 number of transactions permitted under paragraphs (2) and (3) of
2 this subsection, plus any other fees permitted by this section; and

3 (6) Shall not be assessed any fee in excess of the usual fee or
4 charge made by the depository institution to its regular checking
5 account holders for stopping payment on a check or for a check
6 drawn on the account being dishonored, for providing checks, or
7 for any of the following services if provided by the depository
8 institution: money orders, cashiers checks and return of
9 cancelled checks, and any other services other than the basic
10 services provided for herein.

11 b. Except for the fees permitted under paragraph (5) of
12 subsection a. of this section, the depository institution may not
13 charge for: any deposit of funds, maintaining the account,
14 inactivity of the account for a period of six consecutive months,
15 closing the account, or withdrawal of funds by check or otherwise
16 within the limits provided in this section.

17 c. A qualified depository institution may close a basic
18 checking account or convert a basic checking account to an
19 account not subject to the provisions of this section if the
20 account holder:

21 (1) Uses the account in an illegal, fraudulent or other improper
22 manner;

23 (2) Has written three or more checks which were not paid,
24 during the prior six-month period, because the consumer did not
25 have sufficient funds in the account on which the check was
26 drawn; or

27 (3) Ceases to be eligible for benefits for which direct deposits
28 are made pursuant to section 3, 4, 5, or 6 of this act and six
29 months has elapsed since the last direct deposit in the basic
30 checking account was made pursuant to section 3, 4, 5, or 6 of
31 this act.

32 3. Public assistance payments payable by county welfare
33 agencies to recipients of aid to families with dependent children
34 pursuant to P.L.1959, c.86 (C.44:10-1 et seq.) shall be deposited
35 directly in the basic checking account of the recipient in the
36 qualified depository institution designated by the recipient or in
37 the account of the recipient in any depository institution which
38 accepts direct deposits and at which the recipient has an account.

39 4. Public assistance payments payable by local assistance
40 boards to recipients of general public assistance pursuant to the
41 "General Public Assistance Law," P.L.1947, c.156 (C.44:8-107 et
42 seq.) shall be deposited directly in the basic checking account of
43 the recipient in the qualified depository institution designated by
44 the recipient or in the account of the recipient in any depository
45 institution which accepts direct deposits and at which the
46 recipient has an account.

47 5. Unemployment compensation benefits or extended benefits
48 payments payable by the Commissioner of Labor or his duly

1 authorized agent to recipients of benefits pursuant to the
2 "unemployment compensation law," R.S.43:21-1 et seq. or the
3 "Extended Benefits Law," sections 5 through 11 of P.L.1970,
4 c.324 (C.43:21-24.11 et seq.) shall be deposited directly in the
5 basic checking account of the recipient in the qualified
6 depository institution designated by the recipient or in the
7 account of the recipient in any depository institution which
8 accepts direct deposits and at which the recipient has an account.

9 6. Temporary disability benefits payments by the Director of
10 the Division of Unemployment and Temporary Disability
11 Insurance or his duly authorized agent to recipients of benefits
12 pursuant to subsection (f) of R.S.43:21-4 or the "Temporary
13 Disability Benefits Laws," P.L.1948, c.110 (C.43:21-25 et seq.)
14 shall be deposited directly in the basic checking account of the
15 recipient in the qualified depository institution designated by the
16 recipient or in the account of the recipient in any depository
17 institution which accepts direct deposits and at which the
18 recipient has an account.

19 7. The Commissioner of Human Services, in consultation with
20 the Commissioner of Banking, shall establish, by rule or
21 regulation, procedures for the agencies, offices or divisions
22 responsible for qualifying any recipient under sections 3 and 4 of
23 this act to provide recipients information on qualified depository
24 institutions in the recipient's municipality of residence or the
25 qualified depository institution or institutions nearest a
26 recipient's residence and to assist a recipient in establishing a
27 basic checking account in a qualified depository institution of the
28 recipient's choice.

29 8. The Commissioner of Labor, in consultation with the
30 Commissioner of Banking, shall establish, by rule or regulation,
31 procedures for the agencies, offices or divisions responsible for
32 qualifying any recipient under sections 5 and 6 of this act to
33 provide recipients information on qualified depository institutions
34 in the recipient's municipality of residence or the qualified
35 depository institution or institutions nearest a recipient's
36 residence and to assist a recipient in establishing a basic checking
37 account in a qualified depository institution of the recipient's
38 choice.

39 9. a. The Commissioner of Banking shall notify every
40 depository institution in this State of the provisions of this act
41 within 30 days of the effective date of this act and annually
42 thereafter and encourage their participation as qualified
43 depository institutions. Depository institutions which want to
44 participate pursuant to the provisions of this act shall notify the
45 Commissioner of Banking in writing. The Commissioner of
46 Banking shall periodically notify the Commissioners of Human
47 Services and Labor of those qualified depository institutions.

48 b. A qualified depository institution which no longer wants to

1 participate pursuant to the provisions of this act shall notify the
2 Commissioner of Banking in writing thereof. Participation by the
3 qualified depository institution shall continue for at least six
4 months following the notice to discontinue participation to the
5 Commissioner of Banking or for a longer period in the discretion
6 of the Commissioner of Banking.

7 c. The Commissioner of Banking may discontinue the
8 participation of any qualified depository institution pursuant to
9 the provisions of this act that is determined to be insolvent by
10 any State or federal regulatory agency.

11 10. The Commissioner of Human Services, Commissioner of
12 Labor and the Commissioner of Banking may adopt rules and
13 regulations pursuant to the "Administrative Procedure Act,"
14 P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the
15 provisions of this act.

16 11. This act shall take effect immediately, except that
17 sections 3, 4, 5, and 6 shall remain inoperative for 180 days.

18 19 20 STATEMENT

21
22 This bill provides for the direct deposit of AFDC, general
23 assistance, unemployment compensation benefits and temporary
24 disability benefits payments into the recipients' no-frills banking
25 accounts. These direct deposits would be made in depository
26 institutions which agree to establish no-frills banking accounts
27 for the recipients.

28 Many of these recipients currently are unable to secure banking
29 services and often must resort to having their assistance or
30 benefit checks cashed by licensed check cashers.

31 32 33 BANKING AND FINANCE

34
35 Provides for direct deposit of certain welfare and unemployment
36 compensation payments to certain depository institutions.

ASSEMBLY, No. 756

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblymen DUCH and GILL

1 AN ACT concerning certain check casher activities and penalties,
2 amending and supplementing P.L.1951, c.187.

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

6 1. Section 17 of P.L.1951, c.187 (C.17:15A-17) is amended to
7 read as follows:

8 17. The licensee shall not charge or collect in fees, charges, or
9 otherwise, for cashing a check, draft, or money order drawn on a
10 bank or other financial institution located in this State a sum or
11 sums exceeding 1% thereof, and shall not charge or collect in
12 fees, charges, or otherwise, for cashing a check, draft, or money
13 order drawn on any other bank or financial institution a sum or
14 sums exceeding 1½% thereof, or \$0.50, whichever is greater. In
15 every location and upon every mobile unit licensed under this act,
16 there shall be conspicuously posted and at all times displayed, a
17 schedule of fees and charges permitted under this act. This
18 schedule shall detail the rates for a range of sample checks and
19 shall clearly indicate that each rate illustrated is the maximum
20 charge allowed for that sample check. The schedule shall be
21 printed in English and Spanish, large enough to be easily seen and
22 read by all customers. The schedule shall include the telephone
23 number of the Division of Consumer Complaints in the New
24 Jersey Department of Banking and a notice to all customers that
25 any check casher violations or any complaints concerning check
26 casher activities should be reported to the division.

27 (cf: P.L.1985, c.219, s.3)

28 2. Section 23 of P.L.1951, c.187 (C.17:15A-23) is amended to
29 read as follows:

30 23. a. Any person who engages in the check cashing business
31 in this State without having first obtained a license as required by
32 section 2 of [this act] P.L.1951, c.187 (C.17:15-2) shall be liable
33 for a penalty of not more than \$1,000.00 for each offense. For
34 the purpose of this subsection, each check cashed without a
35 license shall constitute a separate offense.

36 b. Any person, including any licensee or any partner, officer,
37 director, or employee, whether salaried or commissioned, of such
38 licensee, or any other person representing a licensee, whether

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 directly or indirectly, who violates any provision of [this act]
2 "The Check Cashing Law," P.L.1951, c.187 (C.17:15A-1 et seq.)
3 or any rule or regulation promulgated in connection therewith,
4 shall be liable for a penalty, in addition to all other penalties or
5 forfeitures imposed by this or any other law, of not more than
6 \$1,000.00 for each offense. Any person who shall aid or abet such
7 a violation shall be equally liable for such a penalty as may be
8 imposed upon a principal violator. For the purpose of this
9 subsection, a violation of any section of this act or any rule or
10 regulation promulgated pursuant thereto shall constitute a
11 separate offense.

12 c. The commissioner, in his discretion, is hereby authorized
13 and empowered to compromise and settle any claim for a money
14 penalty under this section for an amount that appears appropriate
15 and equitable under all of the circumstances.

16 d. The penalties provided for in subsection a. and b. of this
17 section, if not voluntarily paid to the commissioner, shall be
18 collected in a summary manner brought in the name of the
19 commissioner pursuant to the provisions of "the penalty
20 enforcement law" (N.J.S. 2A:58-1 et seq.).

21 e. In addition to any other applicable penalties or forfeitures
22 imposed by this or any other law, any person subject to a penalty
23 pursuant to subsection a. or b. of this section shall, for the second
24 or any subsequent violation, perform community service for a
25 period of 30 days, which shall be of such form and on such terms
26 as deemed appropriate under the circumstances by a court of
27 competent jurisdiction.

28 (cf: P.L.1979, c.498, s.8)

29 3. (New section) Each person licensed to cash checks in this
30 State pursuant to P.L.1951, c.187 (C.17:15A-1 et seq.), shall
31 provide a customer with a receipt for each check cashed. The
32 receipt for each check cashed shall contain, but not be limited to,
33 the following information: the date and time of each transaction;
34 the name and licensee's reference number of the person licensed
35 to cash checks, drafts, or money orders; the face amount of the
36 check cashed; the fee charged to cash the check; and the
37 remaining balance paid to the customer. A copy of each receipt
38 shall be kept by the licensee for at least two years and shall be
39 made available to the commissioner upon request pursuant to
40 section 26 of P.L.1951, c.187 (C.17:15A-26).

41 4. (New section) The commissioner shall undertake, in
42 cooperation with agencies of the State, local and federal
43 governments, a program of consumer education to increase
44 awareness on the part of customers of their rights in relation to
45 check cashing businesses and to increase awareness of the
46 activities of the Division of Consumer Complaints in the
47 Department of Banking.

48 5. The commissioner shall report on the implementation of

1 sections 3 and 4 of this act within one year of the effective date
2 of this act to the appropriate standing reference committees of
3 the Legislature and thereafter in the annual report of the
4 Commissioner of Banking pursuant to R.S.17:1-9.

5 6. This act shall take effect on the 90th day following
6 enactment.
7
8

9 STATEMENT
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11 This bill requires check cashers to post a schedule of rates for
12 a range of sample checks and to clearly indicate that each rate
13 posted is the maximum charge allowed for that sample check.
14 The schedule is to be printed in English and Spanish, large enough
15 to be easily seen and read by all customers. The schedule is to
16 include the telephone number of the Division of Consumer
17 Complaints in the New Jersey Department of Banking and a
18 notice to all customers that any check casher violations or any
19 complaints concerning check casher activities should be reported
20 to the division.

21 The bill adds a mandatory 30 day community service penalty
22 for a person who commits a violation subsequent to an initial
23 violation of "The Check Cashing Act."

24 The bill requires licensed check cashers to provide a customer
25 with a receipt for each check cashed containing, but not limited
26 to, the following information: the date and time of the
27 transaction, the name and license number of the check cashing
28 business, the total amount of the check, the fee charged, and the
29 balance paid to the customer. In addition, a copy of each receipt
30 is to be kept by the licensee for a two-year period and which is to
31 be provided to the commissioner upon request.

32 The bill requires the commissioner to undertake, in cooperation
33 with State, local and federal government agencies, a program of
34 consumer education to make customers aware of their rights
35 when cashing checks and to increase consumer awareness of the
36 Division of Consumer Complaints in the Department of Banking.

37 Finally, the bill requires the commissioner to report within one
38 year to the Legislature and thereafter in the department's annual
39 report with respect to the requirements of providing receipts and
40 of the development of a program of consumer education.
41
42

43 BANKING AND FINANCE
44

45 Regulates certain check casher activities; mandates community
46 service for certain violations and requires certain actions by the
47 Commissioner of Banking.

ASSEMBLY, No. 1179
STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblywoman KALIK and Assemblyman ROBERTS

1 AN ACT providing basic financial services and supplementing
2 Title 17 of the New Jersey Statutes.

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

6 1. a. The Legislature hereby finds and declares that:

7 (1) Depository institutions in New Jersey receive substantial
8 public benefits from federal insurance backed by the full faith
9 and credit of the United States Government and certain of these
10 lenders have access to the lender of last resort of the Federal
11 Reserve System at favorable interest rates and terms;

12 (2) Depository institutions in New Jersey receive additional
13 public benefits from State and federal regulation, providing
14 further assurance of their safety and soundness;

15 (3) Enjoying these public benefits, which are critical to their
16 unique status in society, depository institutions in New Jersey are
17 obligated to meet the basic banking needs of the communities in
18 which they are authorized to operate by assuring the availability
19 of essential financial services to all people in the community;

20 (4) In recent years there have been sharp increases in the fees
21 and charges for basic banking services and many of the State's
22 consumers, particularly young, low-income and elderly
23 consumers, now find it increasingly difficult to afford these
24 services;

25 (5) The increased cost of banking and financial services
26 discourages savings on the part of young, elderly and low-income
27 consumers;

28 (6) Those without access to banking and financial services due
29 to increased cost are forced to operate on a cash-only basis and
30 are therefore at greater risk for their personal safety and
31 well-being;

32 (7) The lack of access to banking and financial services forces
33 many low-income and elderly consumers to use relatively high
34 cost check-cashing services to cash their social security or
35 welfare benefit checks, a practice that undermines the
36 effectiveness of these vital public assistance programs.

37 b. It is the purpose of this act to make basic banking services
38 available to consumers by requiring depository institutions to
39 offer certain of these services at low cost to all consumers who
40 abide by their regulations.

41 2. As used in this act:

- 1 a. "Account" means an account in a depository institution with
2 respect to which the account-holder is permitted to make
3 withdrawals by negotiable or transferable instrument, payment
4 orders of withdrawal, telephone transfers, or other similar items
5 for the purpose of making payments or transfers to third persons
6 or others. "Account" shall include demand deposit accounts,
7 negotiable orders of withdrawal, draft accounts, savings deposit
8 accounts subject to automatic transfers, share draft accounts,
9 and all savings deposits and share accounts other than time
10 deposits;
- 11 b. "Basic consumer checking account" means a deposit
12 account with respect to which the account-holder is permitted to
13 make payments to third parties or others by check, which account
14 is:
- 15 (1) Owned by the consumer; and
16 (2) Used primarily for personal, family or household purposes;
- 17 c. "Business day" means any day other than a Saturday, Sunday
18 or legal holiday;
- 19 d. "Check" means any check, share draft, negotiable order of
20 withdrawal, or similar means of making payment or transfers to
21 third parties or others;
- 22 e. "Consumer" means a natural person;
- 23 f. "Commissioner" means the Commissioner of Banking;
- 24 g. "Depository institution" means a State or federally
25 chartered bank, savings bank or savings and loan association doing
26 business in this State;
- 27 h. "Electronic branch" means automatic teller machines
28 (ATMs) and similar technology which may be used by customers
29 of a depository institution in connection with a customer's
30 transaction account;
- 31 i. "Government check" means any check issued by the United
32 States government, any State, any unit of local government, or
33 any agency thereof for personal, family or household purposes,
34 and shall not include any check issued by any government or
35 governmental agency for the payment of any contractual
36 obligation or for any goods or services otherwise provided by a
37 vendor to the government or government agency.
- 38 j. "Office" includes the home office of a depository institution
39 and any office approved as a branch of the depository institution
40 by its federal or State supervisory agency, but excludes
41 free-standing automated teller machines and other free-standing
42 electronic terminals;
- 43 k. "Periodic account statement" means any written statement
44 provided on a regular basis by a depository institution to an
45 account-holder that reflects all debts and credits to an account
46 held by the account-holder for the period represented by the
47 statement;
- 48 l. "Regular checking account" means that type of checking,

1 demand deposit, negotiable order of withdrawal, or similar
2 account, other than a basic checking account as provided
3 pursuant to section 3 of this act, offered by the depository
4 institution, which is held by more consumers than any other such
5 account offered by the institution;

6 m. "Regular savings account" means that type of savings,
7 deposit, share, asset or similar account which permits routine
8 withdrawals, other than a basic savings account as provided
9 pursuant to section 7 of this act, offered by the depository
10 institution, which is held by more consumers than any other such
11 account offered by the institution.

12 3. a. Every depository institution that maintains transaction
13 accounts or offers installment loans or residential home
14 mortgages in this State shall make available to consumers a basic
15 checking account at all offices of that depository institution
16 where transaction accounts are offered or available. Such basic
17 consumer checking accounts shall contain the features specified
18 in subsection b. of this section.

19 b. A basic consumer checking account shall provide that a
20 consumer:

21 (1) (a) May not be required to open an account with an initial
22 deposit in excess of \$10.00;

23 (b) May not be required to maintain any specific minimum
24 balance of funds left on deposit after the initial deposit;

25 (c) May withdraw funds by check for payment to third parties
26 or others at least eight times per month without charge;

27 (d) May withdraw funds by a method other than check or by a
28 similar negotiable instrument at least five times per month
29 without charge; and

30 (e) Shall have no less access to mail, telephone or electronic
31 banking services than that offered to holders of regular checking
32 accounts at that depository institution.

33 (2) Shall not be assessed a fee or charged in excess of:

34 (a) .25¢ per transaction in excess of the number permitted
35 under subparagraphs (c) and (d) of paragraph (1) of this section;

36 (b) \$5.00 in the case of a request by the account holder to stop
37 payment on a check drawn on the account; and

38 (c) \$5.00 in the case of a check drawn on the account and
39 dishonored upon presentment.

40 (3) Shall not be assessed any fee in excess of the reasonable
41 cost to the depository institution of providing checks, money
42 orders, cashier's checks, the return of cancelled checks or
43 similar account related services as determined by the
44 commissioner.

45 (4) Shall not be assessed any monthly, per transaction or other
46 fee or charge for:

47 (a) Any deposit of funds into the account;

48 (b) Maintaining the account;

- 1 (c) Inactivity of the account
- 2 (d) Any balance inquiry; or
- 3 (e) Early closure of the account.

4 (5) Shall not be assessed any other account-related fee or
5 charge in excess of the reasonable cost to the depository
6 institution of providing the service charged for, as determined by
7 the commissioner.

8 c. Each holder of a basic consumer checking account shall be
9 entitled to receive from the depository institution information
10 appropriate to the timely resolution of errors or information
11 necessary to prevent improper account balances, including
12 information concerning account activity, and shall be entitled to
13 maintain a passbook for the account or to receive written
14 monthly statements itemizing beginning and ending balances and
15 each transaction.

16 4. a. A depository institution which, in the ordinary course of
17 business cashes checks for account holders shall cash any
18 government check, if the person presenting the check:

- 19 (1) is the individual to whom the check has been issued; and
- 20 (2) is registered with the depository institution pursuant to
21 subsection b. of this section.

22 b. In order to provide for registering a consumer who wishes to
23 cash a check at a depository institution, a depository institution
24 shall:

- 25 (1) Provide for registration at all of its offices;
- 26 (2) Register applicants by means of an application containing
27 the application date, the name, address, date of birth, social
28 security number, and the hand written signature of the applicant
29 as well as any other information the commissioner may deem
30 necessary;
- 31 (3) Verify the information required to be submitted by the
32 applicant within 30 days of receipt of the application;
- 33 (4) Consider the applicant registered, upon verification, and
34 provide the applicant with an identification card in a form
35 approved by the commissioner; and
- 36 (5) Implement any other requirements which the commissioner
37 by regulation shall promulgate.

38 5. The depository institution may restrict the cashing of any
39 government check presented in accordance with subsection a. of
40 section 4 of this act only to the office to which the application
41 was submitted, except that all offices of the depository
42 institution shall cash any government check presented in
43 accordance with subsection a. of section 4 of this act if the
44 person presenting the check also presents a reliable piece of
45 identification which includes a photograph.

46 6. A depository institution may assess a charge for issuing an
47 identification card, in an amount not in excess of the actual cost
48 incurred in processing the application and issuing the card, as

1 determined to be fair and reasonable by the commissioner. No
2 charge may be assessed for cashing checks pursuant to subsection
3 a. of section 4 of this act.

4 7. a. Every depository institution that maintains transaction
5 accounts or offers installment loans or residential home
6 mortgages in this State shall also make available to consumers a
7 basic savings account at all offices of that depository institution
8 in this State where transaction accounts are offered or available.
9 A basic consumer savings account shall be a savings deposit
10 account, established and maintained for personal, family or
11 household purposes, which permits the account-holder to make
12 deposits and withdrawals and to earn interest on the amounts on
13 deposit. Basic consumer savings accounts shall contain the
14 features specified in subsection b. of this section.

15 b. A basic consumer savings account shall provide that a
16 consumer may:

17 (1) Not be required to open an account with an initial deposit
18 in excess of \$10.00;

19 (2) Not be required to maintain any specific minimum balance
20 of funds left on deposit after the initial deposit;

21 (3) Withdraw funds on deposit in person at any of its offices at
22 least once a week without charge;

23 (4) Conduct a deposit transaction in person at any of its
24 offices at least twice a week without charge; and

25 (5) Have no less access to mail, telephone or electronic
26 banking services as is offered to holders of regular savings
27 accounts at that depository institution.

28 c. No fees or service charges of any type shall be charged in
29 connection with a basic consumer savings account, except that a
30 depository institution may charge consumers the reasonable cost
31 incurred, as determined by the commissioner, of any in-person
32 deposit and withdrawal transaction in excess of the number
33 permitted in paragraphs (3) and (4) of subsection b. of this
34 section. Such reasonable costs as determined by the
35 commissioner shall reflect the marginal and unavoidable cost to a
36 depository institution imposed by additional in-person deposit and
37 withdrawal transactions.

38 d. Interest shall be paid the account-holder on all amounts on
39 deposit at a rate not less than 75% of the annual rate paid by the
40 depository institution on its regular savings accounts. For the
41 purposes of this section, the interest accruing to a basic
42 consumer savings account shall be computed in the same manner
43 that the depository institution uses to compute interest accruing
44 to its regular savings accounts.

45 e. Each holder of a basic consumer savings account shall be
46 entitled to receive from the depository institution information
47 appropriate to the timely resolution of errors or information
48 necessary to prevent improper account balances, including

1 information concerning account activity, and shall be entitled to
2 maintain a passbook for the account or to receive written
3 monthly statements itemizing beginning and ending balances and
4 each transaction.

5 8. No consumer shall be entitled to hold concurrently more
6 than one basic consumer checking account and one basic
7 consumer savings account.

8 9. Except as otherwise provided in this act, a depository
9 institution shall offer all of its products and services to a
10 consumer who holds a basic consumer checking or savings account
11 on the same basis that it offers those products and services to
12 consumers who do not hold basic consumer checking and savings
13 accounts, except that a depository institution may refuse to
14 maintain any transaction accounts other than basic consumer
15 checking and savings accounts for the account-holders of basic
16 consumer checking or savings accounts.

17 10. A depository institution shall not require that a consumer
18 have any other account at that or any other depository institution
19 or have a credit card issued by it or any other depository
20 institution as a condition to opening either a basic consumer
21 checking account or a basic consumer savings account, and shall
22 not impose any other requirement that would tend to discriminate
23 against low-income consumers.

24 11. Any requirement by a depository institution for proper
25 identification to open either a basic consumer checking or savings
26 account shall be satisfied with either a valid New Jersey driver's
27 license or a valid identification card from a public assistance
28 program, such as food stamps, general public assistance or Aid to
29 Families with Dependent Children (AFDC).

30 12. Every depository institution required to offer basic
31 consumer checking or savings accounts or to provide check
32 cashing services pursuant to section 4 shall post a conspicuous
33 notice in an appropriate area of each location where deposits are
34 accepted that informs account-holders and potential
35 account-holders that basic consumer checking and savings
36 accounts and check cashing services are available. The notice
37 shall clearly explain the material features and limitations of such
38 accounts and check cashing services so that consumers can
39 reasonably be expected to understand the terms of the accounts
40 and services offered.

41 13. Every depository institution shall maintain a schedule of
42 fees, charges, terms and conditions applicable to any account
43 offered by the depository institution which shall include but not
44 be limited to the following information:

45 a. A statement including the amount of any minimum initial
46 deposit required to open an account.

47 b. A statement including the amount of:

48 (1) Any monthly or other minimum balance necessary to avoid

- 1 fees or charges;
- 2 (2) The method for calculating minimum balances; and
- 3 (3) A clear example of how such a minimum balance is
- 4 calculated.
- 5 c. A statement, including the amount of:
- 6 (1) Any monthly maintenance or other periodic charge for the
- 7 account; and
- 8 (2) The conditions under which such a charge shall be assessed.
- 9 d. A statement including the amount of:
- 10 (1) any per transaction charge; and
- 11 (2) The conditions under which such a charge shall be assessed.
- 12 e. A statement, including the amount of:
- 13 (1) any charge or penalty for excess withdrawal; and
- 14 (2) The conditions under which such a charge or penalty shall
- 15 be assessed.
- 16 f. A statement including the amount of any charge for a check
- 17 drawn on the account and dishonored upon presentment.
- 18 g. A statement including the amount of any charge for a check
- 19 deposited into the account and dishonored by the payor bank.
- 20 h. A statement including the amount of any stop payment
- 21 order.
- 22 i. A statement including the amount of:
- 23 (1) Any charge for a balance inquiry; and
- 24 (2) The conditions under which such a charge will be assessed.
- 25 j. A statement including the amount of:
- 26 (1) Any charge for closing an account; and
- 27 (2) The conditions under which such a charge shall be assessed.
- 28 k. A statement including the amount of:
- 29 (1) Any charge for an inactive account; and
- 30 (2) The conditions under which such a charge will be assessed.
- 31 l. Interest payable on any account, including:
- 32 (1) (a) The rate of simple interest;
- 33 (b) The frequency with which interest will be compounded and
- 34 credited;
- 35 (c) The period during which this interest rate will be in effect;
- 36 and
- 37 (d) If applicable, the information contained in subparagraphs
- 38 (a) and (b) of this paragraph that will take effect at the end of
- 39 the period referred to in subparagraph (c) of this subsection, or
- 40 the method of computing such terms;
- 41 (2) The annual percentage yield, which shall be equal to the
- 42 total amount of interest that would be received on a \$100 deposit
- 43 under the terms contained in paragraph 1 of this subsection over
- 44 a 365-day period expressed as a percentage;
- 45 (3) (a) Any minimum balance necessary for the depositor to
- 46 receive interest including any balances that would result in the
- 47 depositor receiving a higher or lower interest rate;
- 48 (b) The method for calculating the minimum balance; and

1 (c) A clear example of how the minimum balance is calculated;

2 (4) A statement including the duration of any time
3 requirement that must be met for a depositor to receive interest;

4 (5) A statement, where applicable, that a depositor will lose
5 interest that has accrued, but not been credited, if funds are
6 withdrawn before interest is credited;

7 (6) (a) Any provision regarding nonpayment of interest,
8 including any charge or penalty for early withdrawal; and

9 (b) The conditions under which such charge or penalty may be
10 assessed.

11 m. Fees and charges for any other services routinely offered
12 by the depository institution; and

13 n. Any other information that the commissioner determines
14 will assist consumers in determining and comparing the costs of
15 accounts and service offered at the depository institution.

16 14. The balance on which interest is computed in any account
17 shall be the average daily balance for which interest is to be
18 calculated.

19 15. a. The schedule required by section 11 of this act shall be
20 provided:

21 (1) In the first regularly scheduled mailing to account-holders
22 occurring not more than 60 days after the effective date of
23 regulations issued by the commissioner pursuant to this act;

24 (2) To any potential customer before an account is opened or a
25 service is rendered; and

26 (3) To any person upon request.

27 b. In the event of any change in the schedule, account-holders
28 who will be affected shall be notified and provided a description
29 of the change by mail at least 30 days prior to the effective date
30 of the change.

31 16. If the amount of interest paid on any account or if service
32 charges assessed against the account-holder are affected by a
33 minimum balance requirement, any periodic account statement
34 provided by a depository institution to an account-holder shall
35 disclose: the actual balance amount used by the institution to
36 compute the interest payable on the account; the actual amount
37 used to determine whether service charges will be assessed; and
38 the method for computing a minimum balance or balances.

39 17. a. Every advertisement, announcement, or solicitation
40 regarding an account offered by a depository institution that
41 contains or refers to interest rates or percentage yields shall
42 state in a clear and conspicuous manner:

43 (1) (a) The rate of simple interest and the basis of
44 compounding;

45 (b) The period during which this interest rate will be in effect;

46 (c) If applicable, the information contained in subparagraph (a)
47 of this paragraph that will take effect at the end of the period
48 referred to in subparagraph (b) of this paragraph, or the method

1 of computing such terms;

2 (2) The annual percentage yield, which shall be equal to the
3 total amount of interest that would be received on a \$100 deposit
4 under terms contained in subparagraph (a) of paragraph (1) of this
5 subsection over a 365-day period expressed as a percentage;

6 (3) Any time or amount requirements necessary for the
7 depositor to earn the interest advertised. In the case of split
8 rates, the lower and higher rates shall be in close proximity and
9 have equal prominence;

10 (4) Any initial deposit required to open the account that pays
11 the interest advertised;

12 (5) If applicable, a statement that fees or other conditions
13 could reduce the yield; and

14 (6) If applicable, that a substantial interest penalty is required
15 for early withdrawal.

16 b. No advertisement, announcement, or solicitation may refer
17 to a free or no-cost account if:

18 (1) There is any balance required to open such an account or to
19 avoid fees and charges; or

20 (2) Such an account has any transaction or other service
21 limitations.

22 c. The disclosure required by paragraphs (1), (2), and (3) and of
23 subsection (a) of this section shall be given equal prominence; and

24 d. No depository institution shall make any advertisement,
25 announcement, or solicitation relating to a deposit account that
26 is inaccurate, or misleading or that misrepresents its deposit
27 contracts.

28 18. a. A depository institution that fails to comply with the
29 requirements of this act may be enjoined in any court of
30 competent jurisdiction and shall also be liable for the actual
31 damages suffered by an aggrieved party, the costs of the action,
32 and reasonable attorney's fees, as determined by the court. A
33 minimum damage award of \$100 shall be available to successful
34 litigants. The court may award punitive damages upon a finding
35 of willful violation and make such orders as may be necessary to
36 prevent future violations of this act.

37 b. Nothing in this act shall be construed to limit the rights or
38 remedies which are otherwise available to the holder of a basic
39 consumer checking or savings account under any other law.

40 19. Upon a finding by the commissioner, after notice and
41 hearing, of a violation by any person of any of the provisions of
42 this act, or any regulation or order of the commissioner issued
43 pursuant thereto, the commissioner may order the person to
44 cease any violations or to pay a civil penalty not in excess of
45 \$1,000 per day for each day that the violation has continued, or
46 both, the penalty being recoverable under "the penalty
47 enforcement law," N.J.S.2A:58-1 et seq.

48 20. Not later than six months after the date of enactment of

1 this act, the commissioner shall promulgate regulations pursuant
2 to the "Administrative Procedure Act," P.L.1968, c.410
3 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

4 21. This act shall take effect immediately.

5 6 7 STATEMENT

8
9 This bill requires depository institutions to provide limited, low
10 cost or "no frills" checking and savings accounts to any consumer
11 willing to be subject to its restrictions. Initial deposit
12 requirements cannot exceed \$10. The checking accounts must
13 provide eight free checks and five free withdrawals per month.
14 In person savings withdrawals are limited to one per week and
15 deposits to two per week without charge. An interest rate
16 equivalent to at least 75% of the annual rate on regular savings
17 accounts is required. Consumers cannot have more than one of
18 each of these accounts concurrently.

19 This bill requires banks to register non-account holders
20 requesting check-cashing cards. The card would allow the holder
21 to cash state, local and federal government checks at no cost at
22 the card issuing branch.

23 Most consumers are unable to meet minimum requirements for
24 high yield, no fee savings and checking accounts. Federal
25 Reserve System data shows that 40% of all Americans have less
26 than \$1,000 in financial assets of any type and another 20% have
27 less than \$1,000-\$5,000. In addition, the average family with an
28 income of under \$20,000 per year has less than \$1,000 in
29 combined checking and savings accounts. For families with
30 incomes of over \$50,000, the median size of the checking account
31 is just \$1,700. Most banks typically require \$1,500 to \$5,000
32 minimum balances in NOW accounts to avoid fees.

33 Consumers who cannot meet minimum balance requirements
34 are finding that the amount and number of bank fees has risen
35 tremendously. Between 1979 and 1983, the cost of banking
36 services for the average American household jumped 104% from
37 \$91.94 to \$187.59. Many consumers are unable to maintain bank
38 accounts. For others, what little money they have is eaten away
39 by monthly fees for maintaining an account, not maintaining a
40 minimum balance and making withdrawals and deposits.

41 Section 13 requires the clear and standard disclosure of fees,
42 charges and interest rates offered by depository institutions so
43 that consumers can make meaningful comparisons of services
44 offered by such institutions.

45 46 47 BANKING AND FINANCE

48
49 Requires depository institutions to offer certain basic financial

- 1 services, disclose certain information and, for registered
- 2 non-customers, to cash certain checks.

ASSEMBLY, No. 1180
STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblywoman KALIK and Assemblyman ROBERTS

1 AN ACT requiring depository institutions to cash certain checks
2 and supplementing Title 17 of the Revised Statutes.

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

6 1. a. The Legislature hereby finds and declares that:

7 (1) Depository institutions in New Jersey receive substantial
8 public benefits from federal insurance backed by the full faith
9 and credit of the United States Government and certain of these
10 lenders have access to the lender of last resort of the Federal
11 Reserve System at favorable interest rates and terms;

12 (2) Depository institutions in New Jersey receive additional
13 public benefits from State and federal regulation, providing
14 further assurance of their safety and soundness;

15 (3) Enjoying these public benefits, which are critical to their
16 unique status in society, depository institutions in New Jersey are
17 obligated to meet the basic banking needs of the communities in
18 which they are authorized to operate by assuring the availability
19 of essential financial services to all people in the community;

20 (4) Those without access to banking and financial services due
21 to increased cost are forced to operate on a cash-only basis and
22 are therefore at greater risk for their personal safety and
23 well-being;

24 (5) The lack of access to banking and financial services forces
25 many low-income and elderly consumers to use relatively high
26 cost check cashing services to cash their social security or
27 welfare benefit checks, a practice that undermines the
28 effectiveness of these vital public assistance programs.

29 b. It is the purpose of this act to make basic check cashing
30 services available to consumers by requiring depository
31 institutions to offer these services to all consumers who abide by
32 their regulations.

33 2. As used in this act:

34 "Consumer" means a natural person;

35 "Commissioner" means the Commissioner of Banking;

36 "Depository institution" means a State or federally chartered
37 bank, savings bank or savings and loan association doing business
38 in this State;

39 "Government check" means any check issued by the United
40 States government; any State; any unit of local government; or
41 any agency thereof for personal, family or household purposes,

1 and shall not include any check issued by any government or
2 governmental agency for the payment of any contractual
3 obligation or for any goods or services otherwise provided by a
4 vendor to the government or government agency.

5 "Office" includes the home office of a depository institution
6 and any office approved as a branch of the depository institution
7 by its federal or State supervisory agency, but excludes
8 free-standing automated teller machines (ATMs) and other
9 free-standing electronic terminals;

10 3. a. A depository institution which, in the ordinary course of
11 business cashes checks for account holders shall cash any
12 government check, if the person presenting the check:

13 (1) is the individual to whom the check has been issued; and

14 (2) is registered with the depository institution pursuant to
15 subsection b. of this section.

16 b. In order to provide for registering a consumer who wishes to
17 cash a check at a depository institution, a depository institution
18 shall:

19 (1) Provide for registration at all of its offices;

20 (2) Register applicants by means of an application containing
21 the application date, the name, address, date of birth, social
22 security number, and the hand written signature of the applicant
23 as well as any other information the commissioner may deem
24 necessary;

25 (3) Verify the information required to be submitted by the
26 applicant within 30 days of receipt of the application; and

27 (4) Consider the applicant registered, upon verification, and
28 provide the applicant with an identification card in a form
29 approved by the commissioner.

30 4. The depository institution may restrict the cashing of any
31 government check presented in accordance with subsection a. of
32 section 3 of this act only to the office to which the application
33 was submitted, except that all offices of the depository
34 institution shall cash any government check presented in
35 accordance with subsection a. of section 3 of this act if the
36 person presenting the check also presents a reliable piece of
37 identification which includes a photograph.

38 5. A depository institution may assess a charge for issuing an
39 identification card, in an amount not in excess of the actual cost
40 incurred in processing the application and issuing the card, as
41 determined to be fair and reasonable by the commissioner. No
42 charge may be assessed for cashing checks pursuant to subsection
43 a. of section 3 of this act.

44 6. Every depository institution shall post a conspicuous notice
45 in the appropriate area of each office where deposits are
46 accepted that informs consumers that check cashing services
47 pursuant to section 3 are available. The notice shall clearly
48 explain the material features and limitations of the check cashing.

1 services which are provided pursuant to this act so the consumers
2 can reasonably be expected to understand the terms offered.

3 7. The commissioner shall have the responsibility to study the
4 impact of this act on depository institutions and the check
5 cashing businesses licensed pursuant to "The Check Cashing
6 Law," P.L.1951, c.187 (C.17:15A-1 et seq.) and to report, within
7 a year of the effective date of this act, the findings of that
8 study, including any recommendations, to the appropriate Senate
9 and General Assembly Committees.

10 8. A depository institution that fails to comply with the
11 requirements of this act or any regulation adopted pursuant to
12 this act with respect to any person shall be liable for the actual
13 damages suffered by an aggrieved party, the costs of the action,
14 and reasonable attorney's fees, as determined by the court. A
15 minimum damage award of \$100 shall be available to successful
16 litigants. The court may award punitive damages upon a finding
17 of willful violation and make such orders as may be necessary to
18 prevent future violations of this act.

19 9. Upon a finding by the commissioner, after notice and
20 hearing, of a violation by any person of any of the provisions of
21 this act, or any regulation or order of the commissioner issued
22 pursuant thereto, the commissioner may order the person to
23 cease any violations or to pay a civil penalty not in excess of
24 \$100 per violation, the penalty being recoverable under "the
25 penalty enforcement law," N.J.S.2A:58-1 et seq.

26 10. The commissioner shall promulgate rules and regulations,
27 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
28 (C.52:14B-1 et seq.), within 90 days of the effective date of this
29 act to effectuate the purposes of this act.

30 11. This act shall take effect immediately.

31

32

33

STATEMENT

34

35 This bill requires a depository institution which, in the ordinary
36 course of business, cashes checks for account holders, to cash
37 certain government checks for a consumer as long as the
38 consumer presenting the check is the person to whom the check
39 has been issued and the person is registered with the depository
40 institution.

41 Under the bill, depository institutions are to provide an
42 application form to collect information on an individual wishing
43 to have this check cashing service; to verify the information
44 required to be submitted by the individual within 30 days; and
45 upon verification of the information, consider the individual
46 registered and issue an identification card to the individual for
47 which a reasonable fee may be charged.

48 Under the bill a depository institution may limit the

1 cashing of checks to the office to which an application was
2 submitted, except that all offices of the depository institution
3 are to cash any government check presented by the individual to
4 whom it was issued if that person presents an identification card
5 which includes a photograph.

6 Within a year of the effective date of the act, the
7 Commissioner of Banking is to present to the appropriate
8 committees of the Legislature the findings of a study of the
9 impact of this legislation on depository institutions and the check
10 cashing businesses licensed pursuant to "The Check Cashing Law."

11

12

13

BANKING AND FINANCE

14

15 Requires depository institutions to cash certain checks.

TABLE OF CONTENTS

	<u>Page</u>
Marshall Wolf Community Reinvestment Officer MidLantic National Bank	3
Douglas H. Palmer Mercer County Freeholder	15
Assemblywoman Barbara F. Kalik District 7	19
Patricia Dorsey Consumer Issues Coordinator New Jersey Public Interest Research Group (NJPIRG)	19
Randall Alston New Jersey Citizen Action	26
Donald Nowicki Executive Vice President United Counties Trust Company Cranford, New Jersey	32
Christopher W. Cooney Legislative Liaison New Jersey State Department of Banking	41
 APPENDIX:	
Statement submitted by Patricia Dorsey	1x

* * * * *

ASSEMBLYMAN JOSEPH J. ROBERTS, JR. (Chairman): Ladies and gentlemen, we're going to get started. I want to thank you for your patience, and thank you for being with us today. I'd like to begin with roll call of members of the Committee.

MR. SETTLE (Committee Aide): Assemblywoman Randall (no response). Assemblyman Penn.

ASSEMBLYMAN PENN: Yes.

MR. SETTLE: Assemblyman Spadaro.

ASSEMBLYMAN SPADARO: Yes.

MR. SETTLE: Assemblywoman Bush.

ASSEMBLYWOMAN BUSH: Here.

MR. SETTLE: Assemblyman Roberts.

ASSEMBLYMAN ROBERTS: Here. I just would like to make a few preliminary comments about some of the issues we are going to be talking about today, during this public hearing. They really are issues that are linked together in terms of how financial institutions in our State relate to the communities, the extent to which the needs of communities in New Jersey are being served, and exploring some ideas and initiatives that hopefully will allow the financial institutions to operate even more effectively than they were already.

The issue of community reinvestment with respect to housing loans, small business loans, consumer loans: Are they available to the extent that they should be? Can the financial institutions do more than they are presently doing? What are the kinds of incentives that can be used to encourage the banks to play a larger role in the communities in our State? And frankly, are there some penalties that banks or financial institutions ought to be confronted with if they are CRA rated, if their involvement in the community is not on a level where it ought to be? Those kinds of issues.

The issue of the relationship between the banks and the government with respect to government checks, government

deposits, the cashing of government checks; clearly the issue the concern about theft of checks, and fraud with respect to cashing them has been raised. That's something that we need to talk about as well, and obviously one side issue with respect to that is the issue of direct deposit, which the legislation has been introduced to address.

The issue of basic banking services for the people of New Jersey is something as well that we will be exploring today and in the subsequent hearings. To what extent are they currently available? To what extent are basic banking services currently available? As many of you know, the Commissioner is in the process of soliciting input from the various banks around the State to determine to what extent no frills basic banking services are already provided to our citizens. We need to look at that data and certainly, that will be provided to this Committee. Is that adequate? Is what is currently in place adequate? Is there a need for more to be done? How should the additional services, if there are any, be structured?

And then last, but certainly not least, we're going to look at the issue of check cashing operations in this State. Is there a need for them? What need do they serve? Are they regulated properly? How are they linked with other aspects of the financial institution community? The issue of rates with respect to check cashing operations, are they adequately publicized? Does the licensing procedure operate to the extent that it should? Is the penalty mechanism for violations of the current law and proposed legislation adequately in place?

I would just like to again thank you all for being here today. This is the first of three hearings that the Committee will be holding on these issues and others that are related. We're considering specific pieces of legislation, but really are in the process of getting input from yourselves, community leaders, and members of industry groups, so that we can come to grips with some of these issues in a coordinated

way, and go forward as a Committee to address some of them.

The second hearing will be held on May 24 in Camden, the third hearing will be held on June 4 in East Orange, New Jersey and obviously, you are most welcome to participate in those hearings as well. I'd like to begin with our first-- Let me first ask if any members of the Committee have anything to say before we get started? (no response) We'll take our first witness then, who is Marshall Wolf, representing MidLantic National Bank. Mr. Wolf, good morning.

M A R S H A L L W O L F: Joe, good morning. Thank you for inviting me to be here with you this morning.

ASSEMBLYMAN ROBERTS: Thank you very much.

MR. WOLF: Nice to see you in a different surrounding last week, down in Florida. Can I pass out copies of this booklet here--

ASSEMBLYMAN ROBERTS: Certainly.

MR. WOLF: --which I'm going to refer to? Stephanie, George, Jack, we haven't met, but it's nice to see you here. For a little perspective, I guess the CRA bill became an act of Congress back about a dozen years ago and for many years our bank and most of the others were under the impression that we were complying well, and were doing a lot of good in the community.

Back about four years ago, as the consumer movement around the country and in New Jersey began to intensify, our bank wanted to merge with a bank in Philadelphia and some groups took advantage of a hidden provision in the act which gave them an opportunity to protest and ask that we look at what we are doing and try to be more responsive to the needs of low and moderate income people throughout the State and in particular, in urban areas. At that time our Chairman, Bob Van Buren, asked me to-- Lisa.

ASSEMBLYWOMAN RANDALL: Good morning.

MR. WOLF: How are you doing?

ASSEMBLYWOMAN RANDALL: Pardon me, I was at an Education Committee. Excuse me.

ASSEMBLYMAN ROBERTS: Nice to see you.

ASSEMBLYWOMAN RANDALL: Thank you.

MR. WOLF: Yes, may I take a look--

ASSEMBLYMAN PENN: Sir, could you talk a little bit about the background of the CRA legislation and the heightened interest here in New Jersey stemming back about four years ago?

MR. WOLF: At that time our Chairman asked me to take a look at what we were doing and see how much good and how much not good we were accomplishing, and I found a little of both. I found I was very pleased with a number of things that were happening, that there were some clear holes, principally in the area of looking at CRA as a management project, focusing on it as though it were a major activity and making sure that none of it dropped through the cracks. We also found that there were some gaps in our service; one was providing a lifeline checking account.

Since then, we've taken an overhaul of what we've been doing, as have many banks. This came about in part through discussions with community groups, resulting in a number of banks in New Jersey indicating that they would in one form or another make the best efforts to achieve some CRA goals. These include Chemical Bank -- and Preston Pinkett is behind me that I work closely with -- that includes Carteret Savings Bank, and I think I saw Frank Willis of First Fidelity where Jerry Greco has been involved.

About last fall, New Jersey Bankers' Association recognized that what was happening was that this area was intensifying, and not all the banks in New Jersey had been through a few of the wars that some of us have and were as tied in to some things that they might do that would enhance their CRA goals. As a result, the New Jersey Bankers' Association formed a committee which we call the CRA Committee -- great

imagination -- and it's been laced with people who've had some experience in working over the last four years in the community and also some banks, small and large, to give a full perspective.

The first thing we thought we ought to do is try to get a handle on some of the activities that have gone on that relate to the CRA movement and this book which we put together and issued about a month ago -- and I'll refer to a few items in it -- we thought that there would be two things that would be valuable in this report: 1) it would put on record a number of the activities that have been positive in the communities that banks have been involved in New Jersey, and 2) if we filled it full of vignettes, of things that had happened and worked perhaps some banks that were more lately becoming highly involved, it would see some things in there that might apply to our own bank. Because those of you that have been steeped in the act may know it's not crystal clear how you get a number one rating or a number two rating. It's pretty clear how you get a number four rating, where you flunk, but how you get number one and number two isn't quite as obvious. Thus, this booklet and then a couple of other initiatives of the committee to talk about CRA, I had the pleasure of meeting with you, Joe, and you, Stephanie, and we hope to have an opportunity to meet with all members of this Committee before too long.

Let me just take you through a couple of pages in this book. If you'll open it up to the first page you'll see a covering letter put together by Herman Suenholz who is the retiring President of this group and formally a Vice Chairman of Nat West New Jersey, and it encourages any bank that wants to look into one of the programs mentioned in here to give the Association a call.

It goes on to summarize some statistics that I have found revealing. I didn't realize there are 50,000 people working for banks in the State, some \$62 billion in loans, \$72

billion in deposits, and some six-and-one-half million dollars was donated in New Jersey each year, and over 350,000 pro bono hours given out. But what I thought might be interesting to relate would be to just go through a couple of sections.

In the affordable housing, we highlighted a program called the Camden Two-For program, which I know several of you are familiar with, where we and the Department of Community Affairs are working in concert with people in Camden, the St. Joseph's Carpenter Society to put up condos which will be owned by moderate income people and then rented to low; thus the word Two-For. Turning the page, we'll see St. Joseph's Carpenter Society mentioned. Then in Trenton, a new program called the Trenton Mortgage Plan which came about as confluence of community organizations, DCA, and banks. Up in Paterson, a Pride Home Improvement Program by Broadway Bank, and hopefully as we go through a couple more pages in the financial services, most of the banks have now instituted some form of basic checking, and if our survey comes out -- if Jeff Connor, the Commissioner's survey comes out similar to our informal one -- I think we'll find that in about 90% to 95% of all 2000 branches in New Jersey some form of basic banking lifeline services will be available.

Then there's talk of other programs: a small loan program, unsecured, to help modernize homes that MidLantic has been in, programs of Chemical Bank, of First Jersey, of First Fidelity--

Into health and education, economic development on page 23. Several banks talked about some of the programs in Newark where they've been working with an organization called the Minority Business Consortium and small business activities. I guess the long and the short of it is some 51 banks did respond to this, and it covered somewhere between 85% and 90% of all the deposits in New Jersey. It's not a be-all and end-all, but it is a start. I think that some 50 different programs that are mentioned in here could be applicable to the

other banks, and we hope that this will maybe serve as an impetus to encourage some people into the area. That's somewhat the unknown.

A couple of final thoughts. I think one thing that the banks that have been involved in this for several years have found, is that it's probably more of a marketing problem than anything. There are a number of pretty good services out there for low and moderate income people. When the banks began to offer these programs and open the doors, relatively few people came in. I guess this goes back to an historical day when they may not have felt as comfortable in our banks as they do now, but we found that we need all the help from community groups that we can get. In particular, Citizen Action -- Randy's back here-- And has been very helpful to our bank and several others and what may come as a surprise to some of you is we found that in most cases, while our objectives may not be concentric, there is a very serious overlapping of goals and we need community groups to help us in a territory which is to some degree uncharted. I'd be happy to answer any questions Joe or any of you may have, or offer any other thoughts that you think might be useful.

ASSEMBLYMAN ROBERTS: Thank you, Marshall. Any of the Committee members--

ASSEMBLYWOMAN BUSH: Marshall, I'm reviewing the various programs in here, and I think you mention there are about 51. They're interesting in such -- if we as members of the Committee wanted to know the success rate of each of these programs or any particular one, how would we go about finding it? Would we have to form a particular entity, or could we go through your organization?

MR. WOLF: What I suggest you do, Stephanie, is call Dick Schaub of New Jersey Bankers' whose telephone is on page two.

ASSEMBLYWOMAN BUSH: Okay, is that also Kirk Schaub,

the same person?

MR. WOLF: I'm sorry. That's the problem with antiquity. Jack knows that's his father. Dick Schaub is his father, Kirk Schaub is the kid.

ASSEMBLYWOMAN BUSH: Okay. So that's-- You said the phone number is here on page two?

MR. WOLF: Yes. Well, I thought it was, but the address is here. Al, what's your phone number?

UNIDENTIFIED SPEAKER FROM AUDIENCE: (609) 924-5550.

ASSEMBLYWOMAN BUSH: Okay, thank you.

MR. WOLF: If there are some particular programs in here that some of you are interested in, we'll be glad as a committee to do some research and find out the plusses and minuses of any one. This is really a first effort. We believe that the desire and the need for an intensive commitment to CRA is going to be around for a long time, and future statistics will be more intensified and will involve follow-up on some of these programs. We didn't want to scare the banks off on the first time around, and we just asked for their successes. I think we'll be more interested next time around in what didn't work and why, so we can avoid what isn't going to perhaps be as obvious.

I think phase two for the banks once they have these things and others in place, is going to be a major marketing effort within their own organization. As Randy pointed out at the last hearing, it's good to have these programs, but if all of the people in our 500 branches don't know about them and can't help us market them, they are not going to be worthwhile, and this is going to take some work. I think one of the ways it can happen is as you suggested, Joe, perhaps some punitive measures for those that don't want to get on board, but I think maybe as important is the fact that when these things work, they're fun. We get psychic income out of doing good, in addition to making money. Actually, many of the banks right

now, including our own aren't making very much money. Maybe we thought we should spend more of our time on this. Any other questions or thoughts?

ASSEMBLYMAN ROBERTS: Any other questions or thoughts? (no response) I just have a couple then. Let me just begin by thanking you, and I want to acknowledge Preston Pinkett as well for taking the time to meet with me on a couple of occasions to work on some of these issues. I am absolutely convinced that the two of you and many colleagues that I know you have in the industry are sincerely committed to making CRA work, and developing a really meaningful role for the banks in this State with respect to the communities. I wanted to say that publicly at the outset.

Let me ask you for some thoughts about a couple of themes that the Commissioner has touched on and that I have looked at in the legislation that we have introduced; that is first, the linkage between the banks CRA rating and public deposits. What thoughts do you have about that?

MR. WOLF: Well, I guess my thoughts would go a little bit like this: If any bank has a substantial amount of compliance -- which I guess is a four -- and doesn't fix it when they're told of this, I would personally feel uncomfortable if I were in your shoes, in wanting them to have public funds. Whether or not a three needs improvement -- and it may well be that a number of banks will have threes -- that they won't realize all the nuances that some of us have learned by getting our fingers into the cracks over the last few years.

There are also a couple of other issues now clouding the picture. One, is the economic recession that the real estate industry is in. It was a lot easier to lend funds one, two, three years ago. I don't think that any banks that are doing their jobs properly, will abate their efforts to find good CRA loans, but it isn't as easy now and so I just offer a word of caution there. We are being intensively examined by

the regulators who say they aren't doing anything different than before, but I'm not sure: I think they are applying their rules very intensively. So I'd ask you to consider a little bit of patience as this industry is brought into the mainstream of CRA.

ASSEMBLYMAN ROBERTS: On the punitive side, if you use that word, the Commissioner has indicated, and it's an issue to some extent that I've embraced as well, that the banks that get for example, a four rating, which would be significant noncomplying, ought to be required to do certain remedial activities. For example, he suggested, I believe, that those might be the institutions that would be mandated to cash government checks. I've also looked at the idea of requiring those institutions to consult both with the Banking Commissioner and the Commissioner of Community Affairs to develop a set of activities that would allow them to be more responsive to the community in the area of housing and other areas. What do you think of that notion?

MR. WOLF: Well, it's a little bit like-- We had a person who stole money from our bank a while back, and they wanted to give him community service. I was asked my opinion. I think community service is an obligation to people. It's fun to do. It should be positive, and the thought of using it for punitive means just kind of goes against my grain, personally.

I think all banks, whether they have a one or a two rating, should endeavor to find ways to solve problems of consumers in the State, rather than-- I'd rather have you punish them some other way: Take government deposits away, but I think cashing government checks is one of the unsolved problems that our State and industry face. We've offered some suggestions: having welfare checks go into basic checking accounts. I understand there is a bill in to do that. We think that there may be some way to have an identification like there is with savings bonds. Some other states have become involved in this. I'd rather personally see the industry and

the State officials take this on as a project to solve, rather than have that be something that the bank does because they haven't done the rest of their job as well as they should.

ASSEMBLYMAN ROBERTS: Sure.

MR. WOLF: But, that's only my opinion. As my wife says, I've been wrong before.

ASSEMBLYMAN ROBERTS: Beyond denying access to public deposits, those banks that would be noncompliant, what other kinds of punitive things could you think of that might be appropriate beyond the community--

MR. WOLF: Well, I think for one thing, the Controller of the Currency -- I think as you may recall the new law requires that for any exam conducted after July 1 of this year, a rating be published. And it will not just be a one or a two. There will be several paragraphs, and I think there's some punishment there. If a bank is on page one of a local paper as being substantially noncompliant, that will be very poor.

Also, the OCC, as I know from my experience at MidLantic Corporation, has punitive powers. We had a situation in Florida where we had a bank that was primarily for very wealthy customers in Palm Beach, and we've been trying to sort out how we do that. We learned that if we didn't do that, they would not allow us to build new branches and not allow us to move branches. So there are some very stiff punitive powers built into the existing legislation that could have a detrimental effect, in addition to what you all may feel is appropriate here.

I guess that's one thing of caution, right now. Everybody seems to be examining the banks. I know in Newark where we have a sizable amount of deposits, we have been asked for two years now to submit answers to a questionnaire about that thick (demonstrates) on the various activities that we've been doing, and my guess is that every city and town that has a strong interest in this, may over the next year or two become

very interested in learning what their banks are doing to help them, and if they aren't, thinking of some other depository.

ASSEMBLYMAN ROBERTS: Okay. Anyone else have any questions?

ASSEMBLYWOMAN RANDALL: Just a general question. The CRA ratings that we're referring to: When the bank participates in some of these charitable programs which have nothing to do with loans or grants as such but they are raising money for the Boy Scouts, they're doing something for the New Jersey Interscholastic League for the high school athletes that involve no actual funds going out of the bank, are those things any part of the rating scheme for your CRA rating one through four, or are these just community endeavors that are outside or in addition to the loan programs?

MR. WOLF: Well, Lisa, it's part of the unknown in the equation, and there are probably several unknowns in the equation. The regulators are asked to look at the entire perspective of what a bank does, and there are some 12 factors that they base their rating on, but one of those factors is how intensively and imaginatively the bank takes its funds that it has available for contributions and puts those in areas that are of meaning and substance in their local communities. I think probably lending is a hotter button than donations, but it all seems to be part of the picture.

ASSEMBLYWOMAN RANDALL: The reason I mention it is because since we don't really know, it's something to look at because what troubles me is the economic factors being what they are today is that if those types of programs are not necessarily the factors which are going to be used in evaluating you as a financial institution, you're going to steer away from those. You're not going to spend your money and make your investment. Those are going to be the first ones to go, in a time when you don't have extra money to throw around like now, and those are going to be the first ones to suffer.

ASSEMBLYMAN ROBERTS: Let me just say a word about that. I guess it was uncertainty about the whole evaluation model and exactly what the Federal CRA process was going to look like that prompted me initially to want to create a Division of Community Reinvestment in the State and assign ratings from the State Department of Banking. I have in the interest of not being duplicative in the process backed away from that idea, and I believe the Committee substitute that's proposed has been provided to you, that suggests that the Federal rating model would be used and that whatever incentives or punitive measures that are looked at would be done in accordance with the Federal CRA ratings, so that the New Jersey State Department of Banking wouldn't go in and do a separate review and come up with separate ratings.

But I share your concern that we've got to be absolutely certain that the Federal regulators are looking at the right things, and a bank that has made a tremendous commitment to its community by virtue of doing a lot of good, charitable activities, ought to be reviewed favorably for that. So, I think that's something that we ought to talk about and perhaps think about how we can communicate that sentiment to the appropriate people.

MR. WOLF: I think that achieving a sense of balance is a stated objective of the three regulators that do this with the banks. Time will tell how applicable all of the various factors are going to be in the equation, and I think it might be helpful, Joe, for some of the banks that have been examined to report back to you and this Committee as to how they see the process, and are there any suggestions for announcing it in a way that would benefit New Jersey and not leave one component out? It could be very easy to play triage. If the banks are only looking at A, B, and C, you're certainly going to forget D, E, and F.

ASSEMBLYMAN ROBERTS: That's a very good point. We ought to just continue to solicit their input about the review

process. Yes, Jack?

ASSEMBLYMAN PENN: Just one comment. Many of the people that will be applying for this, especially in the low income and affordable housing sector, may have financial problems when they go into the thing, and may not be as credit worthy as somebody else that's very financially secure that wouldn't be looking for affordable housing. Now you get into a situation where your bank participates in these loans, and all of a sudden the loan is not as current as some of the other loans on the books and the Fed. comes in and jumps all over your case saying, okay, in 90 days you write it off. You used to be able to go 120 days. Don't you think there should be some leeway in here, and these loans should be treated possibly differently than other loans on the books?

MR. WOLF: Well, Jack, I don't think so. I think we are not required as banks involved in CRA to make any loans that don't meet safety and soundness, and I think that what we are doing is applying slightly more flexible criteria as we learn. I hope that the regulators will be cognizant to problems we have with all types of loans as the economy goes down in any one particular area, but I have not seen any evidence yet where the examiners in this area have pushed us into making loans which we think are undesirable. The moment they do, we will yell very loud and very clear.

Just some examples of ways that you can change underwriting standards: Several of the banks in New Jersey are now about to participate in the Community Home Buyers' Program, where the traditional standards of 8% of your income, no more, going into your home, 36 in total debt, are being ameliorated to what is called 33 and 38. under the stipulation that the people involved go through 12 hours of counseling. I think this is a very good program. It's worked in other states. We've seen Donald Harris invoke housing in Newark, put his people through counseling and had relatively little trouble.

I think if we can be smart about it it can work, but there is clearly a fear that we may be in a catch-22; the regulators are very tough on one side, yet pushing us on the other, and sometimes we're in the middle.

ASSEMBLYMAN PENN: That's my concern, is when you are not in a catch-22.

MR. WOLF: Yes, well, we see that we are in somewhat of a catch-22 in the real estate area right now, and it will be interesting to see when the regulators come in intensity and how flexible they are, Lisa, in these different areas. We haven't seen any evidence that they won't be, but we'd like to see something on the positive side.

ASSEMBLYMAN ROBERTS: Okay. Any other questions anyone? (no response) Marshall, thank you very much. I appreciate your coming in.

MR. WOLF: Joe, thank you. I appreciate it.

ASSEMBLYMAN ROBERTS: Next we will hear from Doug Palmer who is a Mercer County Freeholder.

F R E E H O L D E R D O U G L A S H. P A L M E R: Good morning.

ASSEMBLYMAN ROBERTS: Freeholder, good morning. I realize these are busy times, but we appreciate your coming in to be with us today.

FREEHOLDER PALMER: Just a little busy. Vice Chairwoman Bush, I wrote these comments down so I won't be as long-winded or take as long because I know you're busy today.

ASSEMBLYMAN ROBERTS: Take all the time you need.

FREEHOLDER PALMER: Mr. Chairman, I'd like to thank you and the members of the Assembly Financial Institutions Committee for the opportunity to appear before you today to share with you my strong concerns regarding the unmet needs in Trenton for credit and other banking services. Because so many residents in Trenton and throughout the State are being denied access to essential banking services, I strongly support

the need for a comprehensive bill of rights for banking consumers.

Such a bill of rights would guarantee feasible access to those banking services which all of us must have to survive in our society; services such as check cashing, affordable checking and savings accounts. Such a bill of rights would also guarantee that our banks reinvest in our communities and would ensure that they equitably serve the convenience and needs of all of us. Moreover, such a bill of rights would also establish a strong role for the State in protecting equal access to banking services, regardless of race, geography, or wealth.

I appear before you today as a Mercer County Freeholder from Trenton and as a candidate for Mayor of my city. In both capacities, I am constantly made aware of the serious problems we face in the availability of credit and other banking services in Trenton. Even though it has been 13 years since the Federal Community Reinvestment Act was enacted, I continue to hear many complaints about this, discriminatory bank lending practices, disinvestment, and other problems related to bank services.

Recent studies from around the country confirm that racially discriminatory lending practices continue to exist. These studies from Atlanta, Boston, Chicago, and other cities, show that African Americans and Hispanics are rejected from mortgages at twice the rate of whites. These disparities based on race and ethnic origin also appear to exist for commercial lending. For example, SBA guaranteed loans had been allocated in favor of white owned businesses at a rate of two to one in proportion to their numbers. Banks have also continued to draw substantially more from urban deposits than they reinvest in these areas.

Here in Mercer County, a recent study by the Philadelphia Reserve Bank showed that Trenton supplied 36% of

the bank deposits in the County, but the city received only 23% of the total number of mortgages made in the County. Thus, our share of our local banks' deposits have been 50% higher than our share of the money being recycled into home mortgages.

Another very real problem has been caused by the increasingly high bank fees and charges that deter many residents from maintaining checking and savings accounts. As a result of these fees, many of our citizens go without these accounts. This means that they are forced to use commercial check cashers to cash their checks, and are deprived of the safety and convenience provided by these accounts.

In my view, banking services such as these accounts, are a necessity of life in our society. Few of us in this room would willingly choose the inconvenience and risk of using only cash in all of our transactions. Because banking services are as vital to lower income people as they are to all of us, I strongly support Assembly Bill No. 1179 sponsored by Assemblywoman Kalik and Chairman Roberts. This bill would provide our residents with access to low cost, no frills checking and savings accounts. It would also give our residents the right to cash their government checks at local bank branches at no cost.

The enactment of this bill would give consumers some welcome relief in these areas and do so in a comprehensive manner. Additionally, because Federal regulators are failing to enforce the Community Reinvestment Act, I strongly support the concept underlying Assembly Bill No. 15, which is also sponsored by Chairman Roberts. We need to have our State Department of Banking involved in forcing banks to help meet local credit and banking needs. The Department should not be allowed to, excuse the pun, "pass the buck" on this vital issue.

I particularly support the concept of linking the deposit of State funds with bank performance in meeting local needs. It is absolutely appropriate that public dollars be deposited only into these institutions that have the best

record in meeting the needs of our communities. I am personally committed to this concept, and will certainly attempt to implement it on a local level in Trenton after the election. Next, because we will doubtless continue to have commercial check cashers in our State even if A-1179 is enacted, I also strongly support the need for better regulation of this industry. The Public Advocate's report pointed out the abuses in this industry, and Assembly Bill No. 756 should help to control these abuses.

I would urge the Committee to consider one additional idea: to expand community reinvestment and improve banking services in our State. That idea is to amend our interstate banking laws to include some type of community reinvestment provision. My suggestion is to require banks that seek to take advantage of our interstate banking law, to meet a higher standard in serving their communities.

It is useful to note that of the 46 states to adopt interstate banking, 19 of them have adopted this kind of requirement. New Jersey is not one of the 19. However, it is not too late to include one. Because our communities are dependent upon banks for their development capacity, this provision would have a tangible and beneficial effect in promoting the economic revitalization we all seek. The states of Maine, Vermont, and Minnesota, have been leaders in this area. Together, these protections would constitute a vital bill of rights to protect banking consumers in our State. These provisions would provide a direct benefit for our residents and would help forge a new partnership between our banks and our communities. Thank you.

ASSEMBLYMAN ROBERTS: Thank you very much. Any questions or comments as a Committee? I'll just ask you to touch on one other thought if you would. Thank you for your testimony by the way; it's very much appreciated. I see so many issues being linked, and you provided that framework in

your testimony as well with respect to basic banking services being made available to people in New Jersey, particularly in the cities. What is-- One of the points that's made is that services are already in place, services are already available, but it's an inability on the part of the financial institutions to market them, to talk about the products, to let the community know about them. Do you think that's the case to any extent, or is it sheer inavailability?

FREEHOLDER PALMER: Well, I think it's the case in some aspects, but I think there has to be a greater effort and commitment on behalf of the banks to reach out to this segment of our city and citizens. I think we have to do much more, and the banks have to do much more in this endeavor.

ASSEMBLYMAN ROBERTS: Okay, thank you very much. We really appreciate your testimony. It's very helpful to the Committee.

FREEHOLDER PALMER: Thank you.

ASSEMBLYMAN ROBERTS: Thank you. Next we will hear from Patricia Dorsey of New Jersey PIRG.

A S S E M B L Y W O M A N B A R B A R A F. K A L I K:
I'd just like to have a few words if I could.

ASSEMBLYMAN ROBERTS: Sure. Patricia, thank you very much.

P A T R I C I A D O R S E Y: Sure.

ASSEMBLYMAN ROBERTS: Assemblywoman Kalik who has a busy morning as we all do with committee meetings, is here and she has been very much involved with consumer banking issues for at least a few years, probably significantly more than that, and I'd like to give her the opportunity to say a few words.

ASSEMBLYWOMAN KALIK: Thank you. I want to thank the Chair for having public hearings on these particular pieces of legislation, and I kind of think that maybe a public hearing is the best way to get the information out that needs to get out.

from both sides of this issue. For businesses, I certainly understand that nobody is in business not to make money, including banks. They are not charitable institutions. They are business institutions, and they need a fair return on their profit, both for themselves to run the business and of course for their shareholders.

On the other side of the coin however, banking is an institution that serves people, and people need to be served at all levels of the economic scale. And when you deny access to banking to people of low and moderate income, you are almost denying them entry into society, as society works today. We all need to pay bills; we all need to cash checks. For people who are making less than \$15,000 a year, to require them to go to a check cashing facility -- the charge is upwards of 15% of the value of the check -- to cash a check because they can't have a checking account because to have a checking account costs them \$15 a month, is really forcing people like that out of society.

People also need to be able to save money. To charge people to save money is first of all unrealistic, second of all, goes against the basic virtues that this country was built on, which is thrift. We, as a nation, ought to look at some of our foreign competitors where the savings rates per person are per capita 18% of their gross income. They encourage savings; we discourage savings. Again, I want to thank you for this particular forum. I think it's a good forum to get the facts out, and I wish you well. Thank you.

ASSEMBLYMAN ROBERTS: Thank you very much. I appreciate your being with us. Patricia.

MS. DORSEY: Good morning.

ASSEMBLYMAN ROBERTS: Good morning.

MS. DORSEY: I'm Patricia Dorsey. I'm the Consumer Issues Coordinator for the New Jersey Public Interest Research Group. New Jersey PIRG is the State's leading nonprofit,

nonpartisan consumer and environmental protection organization, and we represent 70,000 members throughout the State.

I'd like to thank the Chair and the Committee for holding these public hearings on basic banking, community reinvestment, and check cashing. Before I present our testimony today, I'd like to point out that this is not the first hearing that's been held on these issues. I actually brought some of the public testimony that's been held. Clearly, we have been able to identify that there have been reduced basic banking services provided, but past administrations and committees have failed to respond. New Jersey PIRG urges this Committee to pursue an aggressive consumer protection program to address today's consumer banking needs.

New Jersey PIRG has worked for consumer banking rights and protections since 1972. We conduct comparison surveys to enable consumers to compare banking services, and we also issue statewide reports to document the need for better basic banking. Since 1985, New Jersey PIRG has been actively supporting basic banking and government check cashing as defined in A-1180 and A-1179. In October, we released a comprehensive banking report, which I provided to the Committee earlier in February. This report examines the availability of basic banking services at 58 financial institutions in the State, and it was undertaken to evaluate some of the changes, if any, on consumer bank accounts since interstate banking.

During the debate over interstate banking in 1986, New Jersey PIRG and other consumer groups urged passage of legislation to ensure that the average consumers' needs would not be ignored. We urged adoption of basic banking and government check cashing. The Department of Banking responded by insisting that until it could be documented that basic banking services were not widely available, legislation to assure them was not needed. The Department joined the industry in reassuring us that consumers would be better served by bigger and more competitive banks. On the contrary, our report

shows that minimum balance requirements have skyrocketed and fees are more frequent and higher.

I have some charts here which I'd like to show you. To even open an account -- a checking account -- you can see the fees have increased 53% in just a three-year period. In 1986 all you needed was \$106. Now it's all the way up to \$162 just to open up an account.

On the other side, the average minimum balance required to avoid fees on regular checking accounts has jumped up to \$409. We found only 7% of the banks were offering virtually free checking accounts. And to answer the Chairman's question about whether or not these accounts are widely available, we found that only 38% of the banks that we surveyed were offering what they're terming as basic bank accounts, requiring no minimum balance but having a flat, monthly fee. So, we found only 38%, which is different from the findings of Mr. Wolf, for which I think he was quoting about 90% to 95%.

The cost of banking has even increased for savings accounts. Gone are the days of putting away a few dollars every week. Banks are requiring, on the average, about \$122 to even open a savings account. Two-thirds of the banks are requiring minimum balances to avoid fees. You can see in this chart that 69% of the banks are requiring even a minimum balance to earn interest, and the average required is \$119. So the savings accounts that we knew of -- putting away \$4, \$5, or \$10 every week, and trying to build up -- have virtually disappeared. They're requiring a significant amount of money even to earn interest on a savings account, as Assemblywoman Kalik was earlier testifying.

These rising fees and strict requirements mean that many consumers cannot afford an account. New Jersey financial institutions must be required to offer basic banking. We're

not advocating that the banks offer these accounts at a loss. Indeed, there are five banks currently offering fairly good, low cost banking options. Those are the banks that were mentioned by Marshall Wolf. These accounts were a result of the community reinvestment agreements that were brought about with the Fair Lending Coalition.

Interstate banking may have brought on more competition between the banks, but it has been competition for the large depositor at the expense of the low and moderate income consumer. Consumers are now having to make choices as to whether they can afford a bank account at all. Clearly, it is time to acknowledge that few banks have provided low cost accounts to guarantee access to all consumers. It is a time to adopt basic bank requirements.

On the area of government check cashing: As more consumers are having to turn away from banks because they can't meet the minimum requirements or can't afford the fees, the problem arises as to where consumers without accounts can go to cash government checks. According to a U.S. GAO report in 1988, 75% of those receiving Aid to Families with Dependent Children, and 50% of those receiving Supplemental Security Income, did not have a bank account. Our survey found that only 5% of the banks that we surveyed offer government check cashing. That was a 50% decrease over the three-year period.

Consumers forced out of the banking system must have an alternative to the expense and the crime that check cashing outlets present. Assembly Bill No. 1180, co-sponsored by the Chairman and Assemblywoman Kalik, will enable consumers a simple way to establish a relationship with a financial institution in order to cash government checks. With this option, New Jersey PIRG expects to see a decrease in the number of check cashing outlets and the number of customers using those outlets.

Assembly Bill No. 756 sponsored by Assemblymen Duch and Gill, will better protect those customers by providing more

disclosure in the fees that those outlets can charge. In order to strengthen the bill, New Jersey PIRG recommends that the Public Advocate's recommendation of keeping track of the number of checks and the amount of the checks that come from public assistance that go through check cashing outlets, be kept on record, in order to be able to highlight what the Public Advocate's study concluded, which is, "A substantial amount of public funds earmarked for the needy, is being diverted to the highly profitable licensed check cashing industry."

In the area of community reinvestment: We support obviously, the Federal Community Reinvestment Act and the goals proposed in A-15. Investment by financial institutions in area neighborhoods is vital to the survival of local communities. Without mortgage and home improvement loans, housing stock deteriorates and may even be abandoned. Without loans for small businesses and economic development, stores and jobs leave neighborhoods.

Consumer groups and nonprofit housing development organizations have joined together as the Fair Lending Coalition, to take advantage of the opportunities provided by CRA, and have negotiated six settlements -- six agreements -- with banks. Some of the provisions of these agreements have included dedicating certain amounts of money for mortgage and home improvement loans, grants to community development, credit unions, and some lower cost banking services. But voluntary action on behalf of nonprofit organizations with full agendas already cannot begin to address the needs in monitoring and encouraging fair lending practices in the State. Monitoring and State ratings are vital.

Despite government benefits of Federal deposit insurance and the generous bailout of the savings and loan industry by consumers, New Jersey financial institutions have not been playing the responsible role of providing low and

moderate income consumer banking services. I've brought with me some ads that the banks have been running. Certainly these ads are not inexpensive. We were talking earlier about the marketing of banks and how the banks need help from local community groups for the marketing. But certainly a portion of the money that is being spent to run ads that are requiring a \$25,000 initial deposit can be spent to market some of the lower cost accounts. We would urge that.

The average consumers, for too long in New Jersey, have been bilked with bank fees and services charges. With each day, more are being shut out of the banking system entirely. It is clearly well past the time for the State to respond and to push for an aggressive consumer banking program.

Again, New Jersey PIRG thanks the Chair and the Committee for holding these hearings. We hope that we can count on you to address the consumer banking needs. We look forward to working with you to come up with this program for consumer needs. If there is any more information that we can provide, we would be happy to do so.

ASSEMBLYMAN ROBERTS: Thank you very much. Does anyone have any questions?

ASSEMBLYWOMAN BUSH: I do, Mr. Chairman.

ASSEMBLYMAN ROBERTS: Yes?

ASSEMBLYWOMAN BUSH: I would like to thank Ms. Dorsey for her testimony, because from some of the previous testimony my initial thought was, well, why is it all of a sudden the financial institutions lose their ability and expertise to market, when you see it everyday?

MS. DORSEY: Right

ASSEMBLYWOMAN BUSH: I think that was a very good point.

MS. DORSEY: Thank you.

ASSEMBLYWOMAN BUSH: It is not the expertise or funds, just possibly the commitment to do so.

MS. DORSEY: That's the way we see it.

ASSEMBLYMAN ROBERTS: I just want to indicate one thing as well. Having had the opportunity some weeks ago, to attend a consumer's conference, the point was made very clearly that we need to be rather creative in terms of building that link between consumers and the banks. One issue that was really very interesting to me -- and we have begun to look into a little bit -- is the issue of a neighborhood based credit union whereby low level services-- In other words, if someone needs to borrow \$200 or \$500, there is a place for them to go. It has been described by people that I have spoken to in the industry, that banks in some areas, play sort of a mentoring role in setting up these locally based credit unions, which in my judgment can serve as a real alternative to some of what the check cashing operations are doing now in terms of providing basic banking services, supplementing what the banks are doing and really need to do as well.

MS. DORSEY: Certainly.

ASSEMBLYMAN ROBERTS: Okay, anyone else? (no response) Thank you again for your testimony, Patricia.

MS. DORSEY: Thank you.

ASSEMBLYMAN ROBERTS: Next we'll hear from Randall Alston, of the New Jersey Citizen Action. Good morning.

R A N D A L L A L S T O N: Good morning. Good morning Assemblyman Roberts, and good morning Committee. Thank you for the opportunity to speak. My name is Randall Alston. I'm from New Jersey Citizen Action, representing the State's largest consumer coalition.

We have over 72 affiliate organizations and 65,000 family members that are part of Citizen Action. We gave testimony earlier this year in regard to mortgages, and the financing aspect that community groups have done to encourage banks to live up to their CRA obligations. In terms of the programs of CRA, I definitely support the statements that were

previous to mine in terms of Patty Dorsey, Assemblywoman Kalik, and Mayoral candidate Douglas Palmer, in support of their bill A-1176, A-756, and some of the other bills -- A-15. But I would like to address my comments specifically to direct deposit and some of the experiences that the Trenton Housing Coalition has had working with low income people in the City of Trenton, relative to banking services.

What we have found is that people who are going to these check cashing places or favorite places -- usually liquor stores or bars -- somewhere where there is an established relationship between the customer and the establishment owner. Usually what happens is that people who are going to these places are--

When they go to the bank previously, what they're experiencing is some threshold, some requirements, one of which is two forms of ID: a driver's license, military ID, a work ID and things of that nature. Social security is not one of the acceptable forms of ID. Once you get past that then they are faced with the choices of choosing an account; an economy account, regular checking-- Ms. Dorsey has given some of the numbers relative to that. Some of the fees involved -- service fees -- average between five dollars and six dollars a month, \$13 first 200 checks, \$.25 per check.

When you're talking to someone who really isn't managing money well to begin with, those kinds of things discourage them and then what they oftentimes do is they leave and go to what is seemingly convenient, which is the check cashing place, or the liquor store, or to some other place that they have an established relationship with someone who can trust them.

Because of that, they are being taken advantage of. They don't realize that there is a short-term immediacy to cashing their check, but in the long-term they're not getting any banking services in return. There's no rapport set up,

there's no credit history being established, there is no means to develop some savings, and that is primarily one of the reasons why I wanted to make my comments because people who are put in this situation, who are relying on government assistance are put in that poverty cycle. That way they cannot save, and they are encouraged to spend.

In terms of CRA, I think that the banking programs have to address that head-on because what you have is bank branch closings in these areas. Banks sometimes feel that they don't know how to access this market, and that well, the deposits decline and therefore it's no longer profitable to run this establishment. Therefore, they close the branch, and that's a very serious disservice to these communities that need banking services.

I think a process needs to be put in in order whereby people are encouraged to deposit their money. Obviously, there is enough money to be made, because this check cashing service is a multimillion dollar industry around the State of New Jersey. I think banks would really like to have that money in their own account, so they can make deposits.

In terms of after the deposits are made from people in this economic situation, then we will probably see more spinoff in terms of reinvesting into their communities because the people who are then investing in these areas could go on and borrow small loans for businesses, whatever, to try and get their communities back in order, and that establishes a relationship with the bank. People will begin to trust the bank and the bank begins to feel more inclined to invest in the community. It helps to break down some of the other barriers that were alluded to: the stigma of economic depravity, "Oh this poor person, we don't want to engage them, or this person looks a certain way, or they talk a certain way." Those are the kinds of things that are the block, I think -- from my experiences working with people in the community -- towards

accessing banking services to the community.

I think that in terms of what the State's role could be to help coordinate the efforts from the bank to meet the needs of the community in terms of setting up the kind of dialogue where people who are going to cash their checks from a bank, could take their deposits, and the person say, "Okay you have a check, then what we'll do is we'll also offer you an account," with the provisions and the bills that you've co-sponsored.

Really trying to establish the relationship is the key, and I think that that kind of thing, if the people in the communities like Trenton, Newark, New Brunswick, Paterson, and Camden, if they start to feel that banks are really concerned, and the State plays that role in terms of bringing them together, offering other programs with-- For example, money orders are very very expensive in a bank, running from \$1.75 to \$2.50 in some cases. When you're talking to someone who has limited money in the first place, they're not going to go that route.

It's an education process. I know that oftentimes people blame the bank, a lot of things. It's also the community has its own responsibility too. Sometimes people are already frustrated. They're a little impatient, and then when numbers come at them, and this is what you have to do, they get a little impatient too, and they walk away. So there's cooperation on both sides, but I think that due to the situation that we're faced with. The banks have the higher responsibility because they have the assets and have the capital. A lot of these communities will never come back if banks are not willing to take further measures, and I do think that savings are very very important. People have to break the spending pattern, have to develop a savings mechanism, access to credit. Savings accounts, checking accounts will help that happen. Basically, I don't want to reiterate some of the other

points that some of the other people made, so that's the extent of my comments.

ASSEMBLYMAN ROBERTS: Thank you.

MR. ALSTON: Okay.

ASSEMBLYMAN ROBERTS: Any questions anyone? (no response) I just would like to underscore your comments about building a relationship between a consumer and the bank, and in my mind, that's something that the Committee really needs to focus upon. I represent the City of Camden and live in the city and see a number of different dimensions of the problem; the degree to which people utilize the check cashing operations because they're convenient and they're made to feel very welcome.

Under the best of circumstances, banks can be somewhat intimidating places, because the industry has become so complex, and even with them making a good faith effort to communicate and making people feel welcome, it's sometimes a scary place to go, particularly when you're not accustomed to dealing with them. And building that link -- that link that will be there for a lifetime -- between the banks and consumers, is something that's really very very fundamental.

So, as you indicated, we're looking at a whole host of issues: the possibility of direct deposit, and just the issue of check cashing. Individuals in the industry have legitimately said that one of the problems for them is the concern about fraudulent ID, and individuals coming in and trying to cash checks that have been acquired through theft and other improper means. That's obviously an appropriate concern and direct deposit, to some extent, addresses that.

One figure that I heard recently that was real interesting to me was that when you look at the basic banking services, the no frills accounts that are in place around the State, something like \$500 is the average monthly balance that is found in those accounts. This flies in the face of people

who would say for example, that if a welfare client has a banking account, they're going to go in and take all the money out, and there's not going to be anything there.

MR. ALSTON: Right.

ASSEMBLYMAN ROBERTS: It suggests, I think, that a banking relationship between someone who's receiving AFDC or other types of assistance, can be good for the consumer and good for the banking institution as well. So, clearly there are things that we can look at, and I really appreciate your testimony along those lines.

MR. ALSTON: Thank you. I just would like to add one other comment, or one other thought, I think that some research should be done. New Jersey Citizen Action doesn't have the capacity, but I think the State may have and some of the banks have as well, to look at the competition -- and that being the check cashing industry -- to look at what kind of money they make and in terms of redirecting that money that is brought in off of low income people primarily, how that would benefit the bank in terms of their portfolio and how that money could then be reinvested right back into those communities. I think that's one of the ways you're really bringing-- You're really talking about recycling the money that comes back in the community. So if you could really take a serious look at that and set up some programs that would help that, that would focus in on investment in these areas, particularly around job creation, then I think that you're really talking about some measure to break this cycle of poverty, if you will. Thank you.

ASSEMBLYMAN ROBERTS: Thank you very much.

MR. ALSTON: All right.

ASSEMBLYMAN ROBERTS: I appreciate your testimony. We had two additional witnesses who signed up to testify, Gerald Goldman from the New Jersey Check Cashers Association, who advised us, I believe, that he will testify at the hearing in East Orange and Desna Trist from Neighborhood Housing

Services. Is Ms. Trist here? (no response) I think perhaps she is also going to defer testimony to one of the subsequent hearings. Is there anyone else who would like to be heard this morning who hasn't signed up? Yes, sir. Please come forward.

D O N A L D N O W I C K I: Sorry for not signing up earlier, but--

ASSEMBLYMAN ROBERTS: Not at all, not at all. It's a pleasure to have you with us.

MR. NOWICKI: --I didn't know what your procedure was. I'm Donald Nowicki, I'm the President of United Counties Trust Company in Cranford, New Jersey. I wanted to talk about some aspects in terms of what our bank does, and in terms of what we are trying to do here with these proposed bills.

Let's first talk about the Community Reinvestment Act. This young lady here, Elizabeth Randall, I guess -- you're Elizabeth--

ASSEMBLYWOMAN RANDALL: Bergen County.

MR. NOWICKI: --from Bergen County, talked a little bit about what communities do other than lending money, and I'll give you a specific incident at our bank. We had a situation this past year where St. Elizabeth's Hospital, which is a hospital in Elizabeth-- There are two other hospitals in Elizabeth, one is Elizabeth General and the other is the Alexian Brothers, which is going to be combined into Elizabeth General Hospital, so there will only be two remaining hospitals.

In order for St. Elizabeth's Hospital to continue to be a vibrant and viable hospital, it had to go on a \$50 million funding program to bring plant equipment up to speed, up to modernization standards, so we could pass the necessary New Jersey Health Care Facilities examinations. They're a customer of our bank. They have been for years. They keep their deposits with us, and they kept them with some other banks, we believe. They came to us with this capital funding program and

said, can you help us out with some money-- Elizabeth is very important to us because we have five branches in Elizabeth and come out with our basic lending programs and our basic checking accounts -- we don't call it basic, we call it a regular checking account; we have a regular savings account and things like that -- so we don't focus in on what we call basic.

We looked at it with our management committee and we said to ourselves, Elizabeth is a very important community. It doesn't have some of the socio-economic advantages of some of the other communities in which we bank -- we have five branches in-- So what we're going to do, is we're going to donate \$100,000 to this hospital. Okay, that is important to us from the standpoint that we do have branches there. It's also important to us from the community reinvestment because if that hospital was not to continue, it would place a tremendous burden on the other hospital that remains. So we did that, and we felt pretty good about that, and the hospital felt especially excited about it.

In order to bolster that effort, we went ahead, and I volunteered to serve on their corporate donation committee, along with our former Chairman. We had been working on that program. So I would hope that when you look at the CRA bill, you look particularly on those other types of programs that are done by the banks in New Jersey, and I gave you one specific situation. It's important because we may not necessarily be able to do all of the lending that we want because of the safety and soundness requirements that are promulgated on us by the FDIC and the State Banking Department, because we get criticized if we make bad loans and we have to charge them off in a certain period of days, which is in safe and sound procedures. Those types of programs are very very important too, and banks do that by and large across the State. St. Elizabeth's Hospital by the way, takes care of a lot of disadvantaged people in Elizabeth. They provide a lot of

services through their emergency facility and that's important. So I would hope that this Committee here would take a look at those types of considerations because they're very very important, besides the lending provisions.

When you get into the community reinvestment, we have a problem when we tie it to the rating that you receive, because we find that it's very very difficult to get an outstanding rating from the FDIC. We've gotten a satisfactory rating, and we think we do a pretty good job.

Now based on the provision of the bill that you have here, if after a certain period of time when we're not to get the outstanding rating, we would lose our ability to receive municipality deposits. That's the way I read the revised version. I think you ought to reconsider that. I think you ought to say, "Hey, anybody who gets a satisfactory or outstanding rating, I think, should qualify," and I think that you ought to let the local communities rationalize it and recognize which banks are really doing the job for them.

I'll use the City of Elizabeth as another example. We have some other municipal accounts -- we don't have them all; I think they spread them around to all the banks in the community -- but the banks, ours included, provide other service. We bid on their bond anticipation notes. We bid on their tax anticipation notes. We try to bid very competitively. We try to give them good rates because on the other side they're depositories of ours, so we try to give them the best possible rate, and that's important.

We also bid on their CDs when they have some extra cash that they get in from their tax funds. We bid on that, and we try to give them competitive CD rates. We also act as, not their bond counsel, but their paying agent on their bonds. When they go to the market and fund bonds over the long term -- I think it's 10 years -- and they take these bond anticipation notes, and they fund them over long term, we act as the paying

agent or the registrar on these bonds. Okay. My bank has done this in the past for free. The fee on that is \$5000 or \$6000 per annum. It's a \$50,000 or \$60,000 fee.

We also cash all of the City of Elizabeth's checks, whether they're customers of our banks or not, because they do business with us. So you've got to look at other types of services just besides the lending, and it's a very very complicated issue because, suppose I get a two rating, which is satisfactory after 1992, and I get a notice from the State Banking Department, "Mr. Nowicki you can't accept any more deposits from Elizabeth"? What do I do with all the other services that I've been providing? Do I pull out of the bond anticipation market? Do I pull out of the tax anticipation? Do I stop bidding on their CDs? In my community, City Federal Bank has gone bankrupt, Colonial Savings Bank has gone bankrupt -- what's the other one? -- First Atlantic Savings Bank has gone bankrupt. They're all in the hands of the RTC, so the alternatives are becoming smaller and smaller. We want to be there for the long pull. We want to do good things in our community, but it's not simply a black and white issue. Okay, that's enough on CRA.

As far as your basic checking is concerned, the lady prior, I don't know her name -- I wrote it down let me see if I can find it. She said that banks charge \$15 a month for bank charges. I'd like to know where that figure came from because I don't know of any bank that charges \$15 a month for bank charges, and I know a check cashing agency -- and I don't know very much about the check cashing industry -- they charge maybe up to \$15 dollars; I hear it's about 1%, 2%, -- I've heard as much as 5%, but I'm not really sure.

In our bank we have a regular checking account. It's available to all people. And we also have golden age checking, for senior citizens, but that account is a six dollar per month charge, \$72 a year. That may seem high but you get free checks

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with that. You can write as many checks-- You get a statement every month mailed to you. You get all of the services that you could possibly want, and if you do maintain over \$500, it's free. If you don't, you get hit with a charge, but it's a basic account. I think a lot of other banks have that, but they don't call it basic checking.

I haven't run the numbers, and cost accounting gets very tricky when you really try to load in what it costs you to service a checking account because you've got all of that computer hardware that's sitting down in your basement that's rendering the statements, you've got people stuffing the checks and filing the checks. There are a lot of expenses. We really haven't done basic cost accounting -- I guess we do it a little differently -- but I think at six dollars a month, I don't think that's extremely difficult. You go to a check cashing service, and they charge you 1% on a \$300 check. That's \$300, and that's just to cash the check. You walk out of there; you get no other services besides that.

So I think that banks overall -- and I know the Commissioner of Banking is putting together a survey, and I think that will shed some light on just how responsive the banks in New Jersey have been towards providing the basic check cashing services, whether they call it basic or not. I think that's important.

As far as government check cashing is concerned, that presents a real problem for banks, and the problem is fraud. We have no recourse back to the Federal government or the State government if the check is cashed and we get these checks back from the Federal government three, four, five years later, after we catch up with the person that presented the check to us. So it becomes very very difficult for us to handle checks that are presented by an individual that's drawn on a Federal government or a State government, and we have no way of trying to track that person down. If we could be indemnified, we'd

gladly cash the checks. We don't have a problem with that. We would rather see government agencies go into the electronic transfer system. It's a lot cleaner; it's a lot easier; it's a lot cheaper for everyone. It eliminates -- not eliminates fraud, but it'll eliminate a large portion of the fraud.

I've heard statistics from the American Banking Association that a check sent in the mail has a 15 times greater chance of getting lost than a check that's electronically transferred from say the agency to the bank that the customer decides it should go. So that presents additional problems there. So I applaud each and every one of you for trying to resolve all of the issues that are presented here today. I think they're important issues, and I think that the banks in New Jersey are caring enough to take an interest in these issues, and I think they want to be part of these issues and resolve them. I think that the viability of any community is the viability of its people, and I think they're important. Thank you very much.

ASSEMBLYMAN ROBERTS: Thank you. Any questions, anyone, for Mr. Nowicki?

ASSEMBLYMAN PENN: Just one. You said about checks being charged back to you three and four years later.

MR. NOWICKI: The Federal government will charge those checks back whenever they determine that they have been fraudulently cashed. See, what'll happen is somebody will cash a check and will present fraudulent ID, and then somebody who never received that check will finally wake up and say, "Hey, I never received that check." They'll go to the Federal government and the Federal government will say, "Let us put it under investigation." Well, when you go to the Federal government to investigate a \$300 check, you can imagine how long it's going to take you, so when the Federal government finally comes back and they traced the check, and they say, "Well, it was cashed at United Counties Trust Company or 'XYZ'

bank and it was fraudulently cashed, because this person has put in a claim," so what do we gotta do, we've got to pay out the claim. That's unfortunate. If they indemnified us we could say fine, as long as we take proper identification.

ASSEMBLYMAN PENN: Well maybe there should be a time on it. Maybe you should say that within a certain length of time.

MR. NOWICKI: You'd tell that to the Federal government? We've tried. Yeah sure, John.

ASSEMBLYMAN PENN: Somebody has to start at someplace.

MR. NOWICKI: That's right. By the way, I have written to our two New Jersey Senators, and my Assemblyman with that time constraint.

ASSEMBLYMAN PENN: Yeah, because I think there should be-- Another thing you talk about and I think we keep going back to it, though I think we're talking around it a little bit today, and that's the matter of credit. I think we're talking a lot about check cashing, and I think one of the things that probably has to be more available for people in the low income and so forth is having ready credit available. Under our existing laws, it's very difficult and I'm not sure I know what the answer might be. But it might be the pooling of a number of banks to develop a fund that would be available with these loans would be being treated differently, because a person that is going through, or maybe buying their first time home or getting into this, maybe needs a little more leniency; then, at the end of 30 days, 60 days, and 90 days be written off. I'm not sure that's the right way to go or ever going to encourage what we're talking about doing. Maybe what we'd have to do is look at a pooling of some sort of funds, that would address this factor.

I don't know. It's just that I think-- I don't think those loans can be treated the same as every other loan, otherwise the banks are not going to lend the money.

MR. NOWICKI: It's very very difficult to make loans that-- Any new home buyer it's very difficult. I find a lot of parents are funding the downpayments on homes for their children. I'll probably do that myself when my daughter and son are old enough. I'm holding in at that prospect. But you're right, there are some programs-- I know in Elizabeth they have the Elizabeth EHIP -- Elizabeth Home Improvement Program -- a program that we participate in, and we try to provide home improvements for a lot of the homes in Elizabeth so that these people can repair their homes, and they can be proud of their homes, and they can have a nice home.

ASSEMBLYMAN PENN: But as the gentleman who testified before said, the idea is to build a relationship and build up a file of--

MR. NOWICKI: Good credit history.

ASSEMBLYMAN PENN: --good credit history. Do you think it's got to be a point that that starts? Sometimes people need a leg up to get to that point.

MR. NOWICKI: No question about it.

ASSEMBLYMAN PENN: So I think what he said was well taken.

ASSEMBLYWOMAN RANDALL: Can I just--

ASSEMBLYMAN PENN: Sure.

ASSEMBLYWOMAN RANDALL: Since we're talking a little bit about check cashing, you say you take all City of Elizabeth checks, you've had some problems with Federal government checks?

MR. NOWICKI: Yes.

ASSEMBLYWOMAN RANDALL: How about New Jersey, State of New Jersey? Do you find problems?

MR. NOWICKI: Not for noncustomers we don't. For customers, we do.

ASSEMBLYWOMAN RANDALL: And you don't take them now, all right--

MR. NOWICKI: Right, not unless they're a customer.

ASSEMBLYWOMAN RANDALL: --which insulates you from possible problems fraud.

MR. NOWICKI: Fraud and losses, yes. See, if we were indemnified-- I think the banks wouldn't have a problem if there were some sort of indemnification back to the State government.

ASSEMBLYWOMAN RANDALL: I'm just thinking of a realistic problem for example, taking -- and I've just seen this happen; I'm sure there are other instances -- Federal checks-- Let's say something like social security payments. After a spouse or family member dies, I know many times what happens is notification doesn't go through, social security checks are going to keep coming through, sometimes for six months, however long they may come through, and they get cashed. Somebody takes them and tries to cash them. I don't know how long it takes in that process for the government to catch up with that. I assume a long time, and I don't know what happens down the road, but there's a legitimate problem there, and I'm not even saying-- You know, sometimes there's not even any malice or forethought in cashing that check. I mean the check comes through, and the person who takes it really doesn't even necessarily realize that you can't keep cashing those social security checks, just because of the death.

MR. NOWICKI: We have--

ASSEMBLYWOMAN RANDALL: I don't know how to protect you, but that's a valid problem I think.

MR. NOWICKI: We have that problem with our existing customers. When a spouse comes in and signs his wife's name to the check, she's deceased, he signs the check and deposits it to the account. Well, the recourse back from the government is to us is because once we put our endorsements down on the back of the check, we guarantee signature, so it's our loss unless we can catch up with the person that deposited or presented the check, and they're very hard to catch up with.

ASSEMBLYMAN ROBERTS: I appreciated your comments about direct deposit and electronic transfer.

MR. NOWICKI: That's really the way to go.

ASSEMBLYMAN ROBERTS: Yeah, it clearly is.

MR. NOWICKI: More and more of that has been happening, and I think it's a good way to go.

ASSEMBLYMAN ROBERTS: Sure. Anyone else have any questions? (no response) Thank you for your testimony.

MR. NOWICKI: Thank you.

ASSEMBLYMAN ROBERTS: I appreciate it very much.

MR. NOWICKI: Good luck.

ASSEMBLYMAN ROBERTS: Thank you. We're going to need it. Yes, Chris Cooney.

C H R I S T O P H E R W. C O O N E Y: Mr. Chairman, may I make a couple of quick comments?

ASSEMBLYMAN ROBERTS: You certainly may.

MR. COONEY: As I said earlier, the Department is going to be making formal comments on each one of the pieces of legislation we have listed, but there were some comments made and I thought I didn't want to let an opportunity go by without updating the Committee members, so this will be less than one minute long.

We are looking at each one of the issues. As every member of the Committee can appreciate, they're extremely complex as you're learning, and will probably continue to learn that it is not an easy task what you are undertaking, but I did want to give you an update. The Commissioner has been in office for all of 35 days, and in those 35 days, he has designated a person within the Department of Banking as the CRA and basic banking coordinator. So there is somebody dedicated just to that function, as well as some other things--

ASSEMBLYMAN ROBERTS: Who is that?

MR. COONEY: But there is somebody-- Kitty Eckelkamp, who happens to be in the gallery.

ASSEMBLYMAN ROBERTS: Okay. Good choice.

MR. COONEY: Yes, we think so too. He's also directed the Department -- Kitty, myself and a number of other people -- to meet and we have been meeting extensively with legislators, and those meetings will continue; also, with community groups and a number of financial institutions, and those meetings are continuing. We are developing a community reinvestment and basic banking policy and plan that the Department of Banking is going to the Committee -- as we already have in meetings -- for your assistance and your input in what the Department can be doing.

The Department will not be looking to -- I can guarantee you -- "pass the buck" to Federal regulators concerning community reinvestment and basic banking issues. The only part that could be construed where that was happening is with the CRA ratings and in your bill, Mr. Chairman as you mentioned, it was creating a Division of Community Reinvestment in the Department of Banking to do those ratings. Those ratings happen to be going public this year for each institution. So we thought in light of the current budget situation, it might be a good idea to streamline that and use the Federal CRA ratings and tie them to any kind of State initiatives. I know the Commissioner has spoken with you about that.

He's also included in each one of his major addresses-- He's given three addresses so far to financial institutions groups, and he has made it very clear that the Department is planning to recommend to the Governor's Office specific community reinvestment and basic banking initiatives, as well as a number of other consumer oriented initiatives. And finally, he has-- Somebody, I think it was Mr. Nowicki from before; is that the gentleman's name?

ASSEMBLYMAN ROBERTS: Yes.

MR. COONEY: He did mention that the Commissioner

did request that each financial institution conduct a basic banking survey and also a check cashing survey -- their check cashing policies. We asked-- We didn't give them much time, but we went through each major trade association and we did ask them to get back to the Department with the results, both accumulated and individual results from each institution by tomorrow, so we will be following up late tomorrow if we haven't received an adequate number of responses. And he is committed to sharing that with this Committee and other members of the Legislature who might be interested.

The Department will be appearing at one of the next two dates to give specific testimony on the specific pieces of legislation, and in general on these topics, but I just wanted to update you on what we're doing so far. Thank you.

ASSEMBLYMAN ROBERTS: Thank you very much. Anyone have anything to bring forward today? (no response) Okay. If not, let me thank you for being here. As I'm sure you know already, we have a hearing on May 24 in Camden and on June 4 in East Orange. Thank you very much.

(HEARING CONCLUDED)

APPENDIX

NJPIRG

NEW JERSEY PUBLIC INTEREST RESEARCH GROUP
State Office, 103 Bayard St., New Brunswick, NJ 08901, 201-247-4606
Legislative Office, 11 N. Willow St., Trenton, NJ 08608, 609-394-8155

TESTIMONY BEFORE ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE

for Public Hearing on basic banking, community reinvestment, check cashing

By Patricia Dorsey, NJPIRG Consumer Issues Coordinator

May 14, 1990

Good Morning. My name is Patricia Dorsey and I am the consumer issues coordinator with the New Jersey Public Interest Research Group. NJPIRG is the state's leading nonprofit, nonpartisan consumer and environmental protection organization representing over 70,000 members throughout New Jersey.

I would like to thank the chair and the committee for holding these public hearings on basic banking, community reinvestment and check cashing. Before I present our testimony today, I want to point out that this not the first hearing held on these issues. Despite clear documentation of reduced basic banking services, past administrations and committees have failed to respond. NJPIRG urges the committee to pursue an aggressive consumer protection program to address today's consumer banking needs. NJPIRG has worked for consumer banking rights and protections since 1972. We conduct comparison surveys to aide consumers in choosing banking services and products. And we write statewide reports to document the need for better consumer banking rights.

Basic Banking

Since 1985, NJPIRG has been actively supporting basic banking and government check cashing as defined in A-1180 and A-1179. In October, NJPIRG released a comprehensive banking report, which I provided to members of the committee at your first meeting in February. The report examines the availability of basic banking services at 58 financial institutions in the state. It was undertaken to evaluate the changes, if any, to consumer accounts since interstate banking.

IX

During the debate over interstate banking in 1986, NJPIRG and other consumer groups urged passage of legislation to ensure that the average consumers' needs would not be ignored. We urged adoption of basic banking and government check cashing. The Department of Banking responded by insisting that until it could be documented that basic banking services were not widely available, legislation to assure them was not needed. The Department joined the industry in reassuring us that consumers would be better served by bigger and more competitive banks.

On the contrary -- our report shows that minimum balance requirements have skyrocketed and fees for services are more frequent and higher. As our charts show, the amount to even open a checking account has risen by 53% in the past three years, from \$106.21 to \$162.33. The average minimum balance required to avoid fees on regular checking accounts has jumped up to \$409.00. And only 7% of the banks surveyed offered virtually free checking accounts.

The cost of banking has even increased for regular savings accounts. Gone are the days of putting away a few dollars every week. Banks are requiring on the average \$122 to open a savings account. Two-thirds of banks are requiring minimum balances to avoid fees. And as seen in this chart, 69% of the banks surveyed are requiring a minimum balance to earn interest. The average required is \$119.

These rising fees and strict requirements mean many consumer cannot afford an account. New Jersey financial institutions must be required to offer basic banking. We are not advocating that banks must offer these accounts at a loss. Indeed there are five banks currently offering fairly good low cost accounts. These banks have responded to community reinvestment agreements made with the Fair Lending Coalition. But five banks simply cannot serve all of New Jersey's basic banking needs.

Interstate banking may have brought on more competition between the banks, but it has been competition for the large depositor at the expense of low and moderate income consumers. Consumers are now having to make the choice as to whether they can afford a bank account at all. Clearly it is time to acknowledge that few banks have provided low cost accounts to guarantee access to all consumers. It is time to adopt a basic bank account requirement.

Government Check Cashing

As more consumers are having to turn away from banks because they cannot meet the minimum requirements or cannot afford the fees, the problem arises as to where consumers without accounts can go to cash government assistance checks. According to a 1988 US General Accounting Office report, 75% of those receiving Aid to Families with Dependent Children and 50% of those receiving Supplemental Security Income do not have a bank account. Our survey found that only 5% of the banks surveyed offered government check cashing for nondepositors, and this represented a 50% decrease over the three year study. Consumers forced out of the banking system must have an alternative to the expense, and danger of crime that check cashing outlets present.

A-1180, sponsored by the Chairman and Assemblywoman Kalik, will enable consumers a simple way to establish a relationship with a financial institution in order to cash government checks. With this option, NJPIRG expects to see a decrease in the numbers using check cashing outlets. A-756, sponsored by Assemblymen Duch and Gill, will better protect those customers by providing more disclosure in fees the outlets can charge. To strengthen the bill, NJPIRG supports the Public Advocate's earlier recommendation that the check cashing centers be required to keep track of the number and amount of public assistance checks going through their outlets. This will clearly document the Advocate's report conclusion that "a substantial amount of public funds earmarked for the needy is being diverted to the highly profitable licensed check cashing industry."

Community Reinvestment

NJPIRG supports the goals of the Community Reinvestment Act and proposals laid out in A-15. Investment by financial institutions in area neighborhoods is vital to the survival of local communities. Without mortgage and home improvement loans, housing stock deteriorates and may be abandoned. Without loans for small businesses and economic development, stores and jobs leave the neighborhood. Consumer groups and nonprofit housing development organizations have joined together as the Fair Lending Coalition to take advantage of opportunities provided by the federal Community Reinvestment Act and have negotiated 6 agreements with banks in the state (Carteret, Chemical, First Fidelity, Midlantic, National Westminster

and United Jersey). Some provisions of these agreements have included dedicating certain amounts of money for mortgage and home improvement loans below market rate, grants to community development credit unions, and some lower cost banking services. But voluntary action on behalf of nonprofit organizations with full agendas already cannot begin to monitor and encourage fair lending in New Jersey. Monitoring and state ratings are vital.

Despite the government benefits of federal deposit insurance and the generous bailout of the savings and loan industry by consumers, New Jersey financial institutions have not been playing the responsible role of providing low and moderate-income consumer banking services. Our banks think nothing of spending fortunes running full page ads recruiting depositors with \$10,000 or more. Yet they balk at the thought of offering a low cost consumer account. The average consumers of New Jersey for too long have been bilked with bank fees and service charge. With each day, more are being shut out of the banking system entirely. It is clearly well past time for the state to respond, and to push for an aggressive consumer banking program.

Again, NJPIRG thanks the chair and the committee for holding this public hearing. We hope that we can count on you to act on the ideas and proposals that consumer groups will be bringing before you. NJPIRG is anxious to work with the committee to establish a comprehensive consumer banking program and would be happy to provide any additional information that the committee feels is needed. Thank you very much.