

[First Reprint]
ASSEMBLY, No. 2320

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 16, 1996

By Assemblymen WEINGARTEN and AUGUSTINE

1 AN ACT concerning limited liability companies and limited liability
2 partnerships and amending ¹[P.L.1953, c.30] R.S.31:1-6 and N.J.S.
3 2C:21-19¹.

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

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8 1. ¹[Section 4 of P.L.1953, c.30 (C.) R.S.¹31:1-6¹[¹]]¹ is amended
9 to read as follows:

10 ¹[⁴]31:1-6¹. No corporation, limited liability company or limited
11 liability partnership shall plead or set up the defense of usury to any
12 action brought against it to recover damages or enforce a remedy on
13 any obligation executed by said corporation, limited liability company
14 or limited liability partnership.

15 (cf: P.L.1953, c.30, s.4)

16
17 ¹ 2. N.J.S. 2C:21-19 is amended to read as follows:

18 2C:21-19. Wrongful Credit Practices and Related Offenses.

19 a. Criminal usury. A person is guilty of criminal usury when not
20 being authorized or permitted by law to do so, he:

21 (1) Loans or agrees to loan, directly or indirectly, any money or
22 other property at a rate exceeding the maximum rate permitted by law;
23 or

24 (2) Takes, agrees to take, or receives any money or other property
25 as interest on the loan or on the forbearance of any money or other
26 interest in excess of the maximum rate permitted by law.

27 For the purposes of this section and notwithstanding any law of this
28 State which permits as a maximum interest rate a rate or rates agreed
29 to by the parties of the transaction, any loan or forbearance with an
30 interest rate which exceeds 30% per annum shall not be a rate
31 authorized or permitted by law, except if the loan or forbearance is

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted January 14, 1997.

1 made to a corporation, limited liability company or limited liability
2 partnership any rate not in excess of 50% per annum shall be a rate
3 authorized or permitted by law.

4 Criminal usury is a crime of the second degree if the rate of interest
5 on any loan made to any person exceeds 50% per annum or the
6 equivalent rate for a longer or shorter period. It is a crime of the third
7 degree if the interest rate on any loan made to any person except a
8 corporation, limited liability company or limited liability partnership
9 does not exceed 50% per annum but the amount of the loan or
10 forbearance exceeds \$1,000.00. Otherwise, making a loan to any
11 person in violation of subsection a.(1) and a.(2) of this section is a
12 disorderly persons offense.

13 b. Business of criminal usury. Any person who knowingly engages
14 in the business of making loans or forbearances in violation of
15 subsection a. of this section is guilty of a crime of the second degree
16 and, notwithstanding the provisions of N.J.S. 2C:43-3, shall be subject
17 to a fine of not more than \$250,000.00 and any other appropriate
18 disposition authorized by N.J.S. 2C:43-2b.

19 c. Possession of usurious loan records. A person is guilty of a
20 crime of the third degree when, with knowledge of the nature thereof,
21 he possesses any writing, paper instrument or article used to record
22 criminally usurious transactions prohibited by subsection a. of this
23 section.

24 d. Unlawful collection practices. A person is guilty of a disorderly
25 persons offense when, with purpose to enforce a claim or judgment for
26 money or property, he sends, mails or delivers to another person a
27 notice, document or other instrument which has no judicial or official
28 sanction and which in its format or appearance simulates a summons,
29 complaint, court order or process or an insignia, seal or printed form
30 of a federal, State or local government or an instrumentality thereof,
31 or is otherwise calculated to induce a belief that such notice, document
32 or instrument has a judicial or official sanction.

33 e. Making a false statement of credit terms. A person is guilty of
34 a disorderly persons offense when he understates or fails to state the
35 interest rate, or makes a false or inaccurate or incomplete statement of
36 any other credit terms.

37 f. Debt adjusters. Any person who shall act or offer to act as a
38 debt adjuster shall be guilty of a crime of the fourth degree.

39 "Debt adjuster" means a person who either (1) acts or offers to act
40 for a consideration as an intermediary between a debtor and his
41 creditors for the purpose of settling, compounding, or otherwise
42 altering the terms of payment of any debts of the debtor, or (2) who,
43 to that end, receives money or other property from the debtor, or on
44 behalf of the debtor, for payment to, or distribution among, the
45 creditors of the debtor. "Debtor" means an individual or two or more
46 individuals who are jointly and severally, or jointly or severally

1 indebted.

2 The following persons shall not be deemed debt adjusters for the
3 purposes of this section: an attorney at law of this State who is not
4 principally engaged as a debt adjuster; a nonprofit social service or
5 consumer credit counseling agency licensed pursuant to P.L. 1979, c.
6 16 (C. 17:16G-1 et seq.); a person who is a regular, full-time
7 employee of a debtor, and who acts as an adjuster of his employer's
8 debts; a person acting pursuant to any order or judgment of court, or
9 pursuant to authority conferred by any law of this State or of the
10 United States; a person who is a creditor of the debtor, or an agent of
11 one or more creditors of the debtor, and whose services in adjusting
12 the debtor's debts are rendered without cost to the debtor; or a person
13 who, at the request of the debtor, arranges for or makes a loan to the
14 debtor, and who, at the authorization of the debtor, acts as an adjuster
15 of the debtor's debts in the disbursement of the proceeds of the loan,
16 without compensation for the services rendered in adjusting such
17 debts.¹

18 (cf: P.L.1986, c.184, s.6)

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20 ¹[2.] 3.¹ This act shall take effect immediately.

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26 Concerns limited liability companies and partnerships and criminal
usury and the defense of usury.