R.S. 17:10-18

May 19, 1966

LEGISLATIVE HISTORY OF R.S. 17:10-18
(Small loan business - Assignment of wages)

COPY NO. 1

L. 1914, Chapter 49 (§7, p. 79) - S5
Introduced January 13 by Mr. Egan.
Amended during passage.
No statement on bill (copy of bill enclosed).

L. 1932, Chapter 62 (§17, p. 105) - S235
Introduced February 24 by Mr. Read.
Amended during passage.
No statement on bill (copy of bill enclosed).

L. 1937, Chapter 171 (§1, p. 413) - A472
Introduced March 22 by Mr. Bischoff.
Not amended during passage.
Statement on bill (copy of bill enclosed statement enclosed).

L. 1948, Chapter 71 (§6, p. 427) - S248
Introduced March 15 by Mr. Barton.
Not amended during passage.
Statement on bill (copy of bill enclosed statement enclosed).

L. 1961, Chapter 121 (§8, p. 727) - A667
Introduced May 15 by Assemblymen Farrington & Maraziti.
Not amended during passage.
No statement on bill (copy of §8 of bill enclosed).

L. 1963, Chapter 81 (§5) - A690
Introduced April 22 by Assemblymen Hauser & Beadleston.
Not amended during passage (copy of §5 of bill enclosed).
Statement on bill:

> This bill is intended to correct certain typographical and similar errors found in the statutes. Its enactment is recommended by the Law Revision and Legislative Services Commission for that purpose.

I am enclosing:

974.90 B218 1929 — N.J. Legislature. Joint Commission to Investigate Dept. of Banking and Insurance. Report, 1929.

Barrett, Roger S. Compilation of consumer finance laws and of usury, sales finance, and allied laws. 1952. (see especially p. 389).

CK/PC

May 16, 1966

R.S. 17:10-18

LEGISLATIVE NOTES ON R.S. 17:10-18
(Assignment of Wages)

L. 1914, Chapter 49 (§ 7, p. 79) - S5
Introduced January 13 by Mr. Egan.
Amended during passage.
No statement on bill.

COPY NO. 1

This section read:

> No assignment of or order for wages earned or to be earned in the future to secure a loan or advancement of three hundred (300) dollars or less shall be valid against the employer of the person making such assignment or order unless such assignment or order is accepted in writing by said employer.

This provision requiring consent of employer was deleted in:

L. 1932, Chapter 62 (§ 17, p. 105) - S235
Introduced February 24 by Mr. Read.
Amended during passage.
No statement on bill.

New Jersey was the second state to enact legislation regulating the small loan business. The pioneer state in this field was Massachusetts.

Chapter 727 of Acts of Massachusetts of 1911 required the consent of the employer in any assignment of wages. This particular provision of the Massachusetts law was deleted in 1916, for reasons outlined in "The history and purpose of the wage assignment statutes with a suggestion for an amendment." 5 Massachusetts Law Quarterly 479, 1920. (See especially p. 486).

I am enclosing a copy of this article on the possibility that the analysis for the change in Massachusetts (the "model" for New Jersey's small loan laws) may provide clues for the change in New Jersey.

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[redacted]

974.90 B218 1929 N.J. Legislature. Joint Commission to Investigate Dept. of Banking and Insurance. Report, 1929.

Barrett, Roger S.
Compilation of consumer finance laws and of usury, sales finance, and allied laws. 1952. (see especially p. 389).

CK/PC

1937 AH72

Under any such assignment or order for the payment of future salary, wages, commissions, or other compensation for services, given as security for a loan made by any licensee under this act a sum equal to ten per centum (10%) of the borrower's salary, wages, commissions, or other compensation for services shall be collectible from the employer of the borrower by the licensee at the time of each payment to the borrower of such salary, wages, commissions, or other compensation for services, from the time that a copy of such assignment, verified by the oath of the licensee or his agent, together with a similarly verified statement of the amount unpaid upon such loan, is served upon the employer.

No assignment of or order for wages earned or to be earned in the future by any municipal or county employee to secure a loan for advancement of three hundred dollars ($300.00) or less shall be valid against any municipality or county employing the person making such assignment or order unless such assignment or order is accepted in writing by said municipality or county.

2. All acts or parts of acts either general or special, inconsistent with the provisions of the foregoing are hereby repealed.

3. This act shall take effect immediately.

STATEMENT

The purpose of this act is set forth in its title.

9. Nothing herein contained shall be construed to impair or affect the obligation of any contract which was lawfully made prior to the effective date of this act.

10. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect, or invalidate the remainder of this act, which shall remain in full force and effect thereafter.

11. This act shall take effect immediately.

STATEMENT

The object of this bill is to restate the statutes governing the making of small loans not exceeding five hundred dollars ($500.00). The maximum rate for licensees on the portion of the loan between three hundred dollars ($300.00) and five hundred dollars ($500.00) would be limited to one-half of one per centum (½ of 1%) a month.

S 248 (1948).

CHAPTER 12 LAWS OF N. J. 1961

APPROVED 11-30-61

ASSEMBLY, No. 667

STATE OF NEW JERSEY

INTRODUCED MAY 15, 1961

By Assemblymen FARRINGTON and MARAZITI

Referred to Committee on Judiciary

AN ACT concerning statutes and revising part of the statute law in connection with the enactment of the Uniform Commercial Code.

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

1. Section 2A:14–1 of the New Jersey Statutes is amended to read as follows:

2A:14–1. Every action at law for trespass to real property, for any tortious injury to real or personal property, for taking, detaining, or converting personal property, for replevin of goods or chattels, for any tortious injury to the rights of another not stated in sections 2A:14–2 and 2A:14–3 of this Title, or for recovery upon a contractual claim or liability, express or implied, not under seal, or upon an account other than one which concerns the trade or merchandise between merchant and merchant, their factors, agents and servants, shall be commenced within 6 years next after the cause of any such action shall have accrued.

This section shall not apply to any action for breach of any contract for sale governed by section 12A:2–725 of the New Jersey Statutes.

2. Section 2A:14–4 of the New Jersey Statutes is amended to read as follows:

2A:14–4. Every action at law for rent or arrears of rent, founded upon a lease under seal, every action at law upon a single or penal bill under

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

seal for the payment of money only, upon an obligation under seal conditioned for the payment of money only, upon a recognizance or upon an award under the hands and seals of arbitrators for the payment of money only shall be commenced within 16 years next after the cause of any such action shall have accrued. If, however, any payment is made on any such lease, specialty, recognizance or award within or after such period of 16 years, an action thereon may be commenced within 16 years next after such payment, and not thereafter.

This section shall not apply to any action for breach of any contract for sale governed by section 12A:2-725 of the New Jersey Statutes.

3. Section 2A:14-28 of the New Jersey Statutes is amended to read as follows:

2A:14-28. If, in any of the actions or proceedings specified in sections 2A:14-1 to 2A:14-19, sections 2A:14-22 to 2A:14-25 or section 2A:14-27 of this Title, judgment is given for the plaintiff therein, and such judgment is reversed on appeal, or, if a judgment pass for the plaintiff and, upon motion for relief from the judgment, judgment is given against him, the plaintiff, his heirs, executors or administrators, may commence a new action within 1 year next after the judgment is reversed or judgment is given against plaintiff, and not thereafter.

This section shall not apply to any action for breach of any contract for sale governed by section 12A:2-725 of the New Jersey Statutes.

4. Section 2A:44-21 of the New Jersey Statutes is amended to read as follows:

2A:44-21. A garage keeper who shall store, maintain, keep or repair a motor vehicle or furnish gasoline, accessories or other supplies therefor, at the request or with the consent of the owner or his representative, shall have a lien upon the motor vehicle or any part thereof for the sum due for such storing, maintaining, keeping or repairing of such motor vehicle or for furnishing gasoline, accessories or other supplies therefor, and may, without process of law, detain the same at any time it is lawfully in his possession until the sum is paid.

The lien shall not be superior to, nor affect a lien, title or interest of a person held by virtue of a prior conditional sale or a prior chattel mortgage properly recorded *or a prior security interest perfected in accordance with chapter 9 of Title 12A of the New Jersey Statutes.*

5. When a financing statement, of the character described in section 12A:9–402 of the New Jersey Statutes, is filed in the office of the Secretary of State or of the Director of the Division of Motor Vehicles in the Department of the Treasury or of any county clerk or register of deeds and mortgages of any county, or in any 1 or more of such offices, the Superior Court, in a summary or other action, brought by any party in interest, may direct the county clerk, the register of deeds and mortgages, the Secretary of State or said Director of the Division of Motor Vehicles, or any 1 or more of them in whose office such statement is filed, to remove the financing statement from the files, mark it "terminated," and send or deliver it and any documents relating thereto filed in such office to the plaintiff or other person entitled thereto, provided the plaintiff shall

a. Present satisfactory proof that the principal and interest due on the obligation evidenced by the financing statement have been fully paid; or

b. Deposit with the clerk of the Superior Court any balance of principal and interest due on the obligation evidenced by the financing statement according to the terms thereof; or

c. Present such special circumstances as to satisfy the court that the secured party or their successors, if any, in right, title and interest have no further interest in the collateral or in the debt secured thereby.

6. Section 1 of chapter 53 of the laws of 1939 is amended to read as follows:

1. Whenever a conditional vendor, bailor, or owner of the general property in goods or chattels *or a secured party as defined in section 12A:9–105 of the New Jersey Statutes* or the assignee or assignees of said conditional vendor, bailor or owner of the general property in goods or chattels *or of any such secured party*, shall institute suit for damages to said goods or chattels

or the collateral as defined in said section of the New Jersey Statutes, while the same are in the custody, control or possession of the conditional vendee, bailee, or owner of the special property in said goods or chattels *or debtor as defined in said section of the New Jersey Statutes* or the agents, servants, or employees of said conditional vendee, bailee, or owner of the special property in said goods and chattels *or of such debtor*, against a third party or parties, or against the agents, servants, or employees of said third party or parties, or both, based on the negligence of the said third party or parties, or the agents, servants, or employees of said third party or parties, the contributory negligence of the conditional vendee, bailee, or owner of the special property in said goods or chattels *or of such debtor*, or of the agents, servants, or employees of said conditional vendee, bailee or owner of the said special property in said goods or chattels *or of such debtor*, shall constitute a proper and valid defense to said action and be a complete bar to recovery in the same manner as though suit were brought by the conditional vendee, bailee, or owner of the special property in said goods or chattels *or such debtor* or by the agents, servants or employees of the conditional vendee, bailee, or owner of the special property in said goods and chattels *or of such debtor.*

7. Section 179 of chapter 67 of the laws of 1948 is amended to read as follows:

179. Equipment obligations.

Subject to the limitations prescribed by section 179.1, a savings bank may invest in equipment obligations or certificates secured by (a) a railroad equipment or car trust, or (b) a lease or conditional sale of *or security interest in*, or (c) a lien on, railroad equipment; provided, that a savings bank shall not invest in any such obligations or certificates:

(1) if, as of the date of issue, the original aggregate principal amount of all obligations or certificates of the same issue exceeded or exceeds (i) 80% of the lesser of the following amounts: (x) the aggregate purchase price originally paid, or to be paid, for the equipment securing the same, less

the aggregate depreciation (if any) accrued thereon to the date of issue, and (y) the aggregate estimated replacement cost of such equipment as of the date of issue, less the aggregate depreciation (if any) accrued thereon to the date of issue, or (ii), if either amount is not ascertainable, 80% of the other amount; or

(2) unless all obligations or certificates of the same issue mature within 15 years from the date of issue, in equal installments beginning not later than 3 years after the date of issue and payable at intervals of not exceeding 1 year.

8. Section 17:10–18 of the Revised Statutes is amended to read as follows:

17:10–18. No assignment of or order for payment of any salary, wages, commissions, or other compensation for services, earned or to be earned, given to secure any loan made by any licensee under this chapter, shall be valid unless the amount of the loan is paid to the borrower simultaneously with its execution; nor shall the assignment or order, or any chattel mortgage *or security interest, as defined in section 12A:1–201 of Title 12A of the New Jersey Statutes, in,* or other lien on, household furniture, then in the possession and use of the borrower, be valid unless **[**it**]** *such assignment, order or chattel mortgage of the financing statement and the security agreement* is in writing, signed in person by the borrower, and if the borrower is married unless it is signed in person by both husband and wife. The written assent of a spouse shall not be required when husband and wife have been living separate and apart for a period of at least 5 months prior to the making of the assignment, order, mortgage, or lien *or security interest.*

Under the assignment or order for the payment of future salary, wages, commissions, or other compensation for services, given as security for a loan made by any licensee under this chapter, a sum equal to 10% of the borrower's salary, wages, commissions, or other compensation for services shall be collectible from the employer of the borrower by the licensee at the time of each payment to the borrower of such salary, wages, commissions, or other com-

pensation for services, from the time that a copy of the assignment, verified by the oath of the licensee or his agent, together with a similarly verified statement of the amount unpaid upon the loan, is served upon the employer.

No assignment of or order for wages earned or to be earned in the future by any municipal or county employee to secure a loan for advancement of $500.00 or less shall be valid against any municipality or county employing the person making such assignment or order unless such assignment or order is accepted in writing by such municipality or county.

9. Section 1 of chapter 40 of the laws of 1960 is amended to read as follows:

1. In this act, unless the context otherwise requires, the following words and terms shall have the following meanings:

(a) "Goods" means all chattels personal having a cash price of $7,500.00 or less, but not including money or choses in action or goods sold for commercial or business use.

(b) "Retail installment contract" means any contract entered into in this State between a retail seller and a retail buyer evidencing an agreement to pay the retail purchase price of goods, or any part thereof, in 2 or more installments over a period of time, and pursuant to which title to, or a lien upon, *or a security interest in,* the goods is retained or taken by the retail seller for the payment of the retail buyer's obligation. This term includes a chattel mortgage, conditional sales contract, or other similar instrument and any *security interest, whether or not a financing statement is required to be filed in order to perfect such security interest, and any other instrument or* contract for the bailment or leasing of goods by which the bailee or lessee agrees to pay as compensation a sum substantially equivalent to or in excess of the value of the goods, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of such goods upon full compliance with the terms of such retail installment contract.

(c) "Retail seller" means a person who sells or agrees to sell goods under a retail installment contract to a retail buyer, and shall include a motor vehicle installment seller.

(d) "Retail buyer" means a person who buys or agrees to buy goods from a retail seller not for the purpose of resale, and who executes a retail installment contract in connection therewith.

(e) "Person" means an individual, partnership, firm, corporation, banking institution, association or any other group of individuals however organized.

(f) "Sales finance company" means and includes any person engaging in this State in the business of acquiring or arranging for the acquisition of retail installment contracts by purchase, discount, pledge or otherwise, and any person engaging, directly or indirectly, in the business of soliciting the purchase of retail installment contracts, or in the business of aiding the retail seller in selling, assigning or arranging for the sale or assignment of retail installment contracts.

(g) "Motor vehicle" includes all vehicles used for transportation upon a highway propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks.

(h) "Motor vehicle installment seller" means a dealer in motor vehicles, who is required to be licensed under chapter 10 of Title 39 of the Revised Statutes and who sells or offers to sell a motor vehicle to a retail buyer under a retail installment contract.

(i) "Cash price" means the minimum price for which the goods subject to the retail installment contract or other goods of like kind and quality may be purchased for cash from the seller by the buyer, as stated in the retail installment contract.

(j) "Down payment" means all payments made in cash or in goods or partly in cash and partly in goods, received by the retail seller prior to or substantially contemporaneous with either the execution of the retail installment contract or the delivery of the goods, whichever occurs later.

(k) "Official fees" means the filing or other fees required by law to be paid to a public officer to perfect the interest or lien, on the goods, retained or taken by a retail seller under a retail installment contract.

(l) "Time price differential" means that part of the time sales price as determined under section 27 (i) by which the time sales price exceeds the aggregate of the cash price and the amount included in a retail installment contract, if a separate charge is made therefor, for insurance and other benefits and official fees.

(m) "Holder" means any person, including a retail seller, who is entitled to the rights of a retail seller under a retail installment contract.

(n) "Banking institution" means any bank or national banking association authorized to do business in this State.

(o) "Commissioner" means the Commissioner of Banking and Insurance of New Jersey and includes his deputies or any salaried employee of the Department of Banking and Insurance named or appointed by the said commissioner to perform any function in the administration or enforcement of this act.

10. Section 46:21–1 of the Revised Statutes is amended to read as follows:

46:21–1. Except as otherwise provided herein *or in chapter 9 of Title 12A of the New Jersey Statutes*, whenever any deed or instrument of the nature or description set forth in section 46:16–1 of this Title, which shall have been or shall be duly acknowledged or proved and certified, shall have been or shall be duly recorded or lodged for record with the county recording officer of the county in which the real estate or other property affected thereby is situate or located such record shall, from that time, be notice to all subsequent judgment creditors, purchasers and mortgagees of the execution of the deed or instrument so recorded and of the contents thereof.

11. Section 46:28–14 of the Revised Statutes is amended to read as follows:

46:28–14. The provisions of sections [46:28–5 and 46:28–7 of this Title] *12A:10–101 through 12A:10–106, the Uniform Commercial Code, of the New Jersey Statutes,* shall not be taken, construed or held to apply to any mortgage of personal property included in a mortgage of franchises and real estate heretofore or hereafter made by any railroad company or any other

corporation defined by any law of this State as a public utility, and which has been or shall be recorded or registered as a mortgage of real estate in every county in which such railroad or public utility, or any part of it, or in which any of the real estate so mortgaged by it, is or shall be located, [and it shall not be necessary to record as a chattel mortgage any mortgage described in this section] *and any such mortgage so recorded shall be valid against the creditors of the mortgagor, and against subsequent purchasers and mortgagees until the same shall be released or shall be canceled of record in the manner prescribed by law for the release and cancellation of mortgages of real estate.*

12. Section 46:28–10 of the Revised Statutes is amended to read as follows:

46:28–10. Every chattel mortgage [which, pursuant to the provisions of this chapter, is recorded or lodged for record before the end of the fifth day next following the day when the mortgage is executed, excluding any day when the office of the county recording officer is closed for business, shall be valid against the creditors of the mortgagor, from the time of the execution of such mortgage, with the same effect as if the mortgage had been recorded or lodged for record immediately after the execution of the mortgage; and] *included in a mortgage of franchises and real estate pursuant to section 46:28–14 of this Title* shall be valid against *the creditors of the mortgagee,* subsequent purchasers and mortgagees from the time of the recording thereof or the lodging thereof for record [; and, if the mortgage is recorded or lodged for record after the end of such fifth day, it shall be valid against the creditors of the mortgagor, and against subsequent purchasers and mortgagees, from the time of the recording thereof, or the lodging thereof for record, and any mortgage so recorded or lodged for record shall be valid] until the same shall be canceled of record [in the manenr prescribed by section 46:28–11 of this Title].

13. Section 48:12–125 of the Revised Statutes is amended to read as follows:

48:12–125. Any railroad company may, *subject to the provisions of section 12A:7–309 of the New Jersey Statutes,* by giving notice to a person offering goods, merchandise or baggage for transportation on the railroad or in the vessels of the company, limit its responsibility as carrier thereof to $100.00 for every 100 pounds weight, unless such person shall pay to the company by way of insurance for any additional amount of responsibility to be assumed, such rate as the company may charge therefor, not exceeding the legal rates for transportating 100 pounds for every $200.00 of additional responsibility assumed on each 100 pounds, and at that rate for a greater or less quantity.

A general notice of such limitation, placed in a conspicuous place at or in the office of the company where goods, merchandise or baggage is usually received for transportation, and inserted in a bill of lading or receipt given for the goods or merchandise, and in the tickets delivered to passengers, shall be sufficient notice under this section.

14. This act shall take effect January 1, 1963.

L.1963, c.81
A-690, 1963

unlawful act of such bank or savings bank for the purposes of Article 42. In determining whether to give or withhold approval of an investment or loan in excess of the limitation imposed by this paragraph, the commissioner shall consider whether the making of such loan or investment is consistent with sound banking practice, having regard to (1) the ratio between the aggregate of such loans and investments and the capital funds of the bank or savings bank; (2) the benefits to the bank or savings bank reasonably to be anticipated from such investment or such loan; (3) the ratio between such aggregate capital funds and total deposits; and (4) such other factors as the commissioner shall consider germane to the protection of deposits. A violation of any provision of this paragraph by any bank, savings bank, or subsidiary of a bank or savings bank, shall not impair the validity or sufficiency of any deed of conveyance, mortgage, or lease made by such bank, savings bank, or subsidiary, of any real property owned by it; nor shall any other interest in such real property, acquired by or vested in any person claiming through or under such bank, savings bank, or subsidiary, or to which such person may be entitled, be impaired by reason of such violation.

5. Section 17:10–18 of the Revised Statutes is amended to read as follows:

17:10–18. No assignment of or order for payment of any salary, wages, commissions, or other compensation for services, earned or to be earned, given to secure any loan made by any licensee under this chapter, shall be valid unless the amount of the loan is paid to the borrower simultaneously with its execution; nor shall the assignment or order, or any chattel mortgage or security interest, as defined in section 12A:1–201 of Title 12A of the New Jersey Statutes, in, or other lien on, household furniture, then in the possession and use of the borrower, be valid unless such assignment, order or chattel mortgage **[**of**]** *or* the financing statement and the security agreement is in writing, signed in person by the borrower, and if the borrower is married unless it is signed in person by both husband and wife. The written assent of a spouse shall not be required when husband and wife have been living

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separate and apart for a period of at least 5 months prior to the making of the assignment, order, mortgage, or lien or security interest.

Under the assignment or order for the payment of future salary, wages, commissions, or other compensation for services, given as security for a loan made by any licensee under this chapter, a sum equal to 10% of the borrower's salary, wages, commissions, or other compensation for services shall be collectible from the employer of the borrower by the licensee at the time of each payment to the borrower of such salary, wages, commissions, or other compensation for services, from the time that a copy of the assignment, verified by the oath of the licensee or his agent, together with a similarly verified statement of the amount unpaid upon the loan, is served upon the employer.

No assignment of or order for wages earned or to be earned in the future by any municipal or county employee to secure a loan for advancement of $500.00 or less shall be valid against any municipality or county employing the person making such assignment or order unless such assignment or order is accepted in writing by such municipality or county.

6. Section 1 of chapter 98 of the laws of 1962 (C. 18:5–74.1) is amended to read as follows:

1. a. Each veteran now holding permanent or provisional office, position or employment, not covered by the retirement system established under [article 3 of chapter 13 of Title 18 of the Revised Statutes,] *chapter 37 of the laws of 1955,* with a board of education or school district in a county in which there exists a pension fund established under article 16 of chapter 5 of Title 18 of the Revised Statutes, shall become a member of said pension fund as of the effective date of this legislation; and each veteran hereafter commencing service in such office, position, or employment shall become a **member of said pension fund as of the date of the commencement of said service.**

b. No public employee veteran who is eligible to be a member of such pension fund shall be eligible for or receive retirement benefits under sections 43:4–1, 43:4–2 and 43:4–3 of the Revised Statutes.