

ASSEMBLY, No. 297

STATE OF NEW JERSEY

INTRODUCED MARCH 30, 1942

By Messrs. AMLICKE and GLICKENHAUS

Referred to Committee on Judiciary

AN ACT concerning district courts, and amending sections 2:32-164 and  
2:32-169 of the Revised Statutes.

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

1 1. Section 2:32-164 of the Revised Statutes is amended to read as fol-  
2 lows:

3 2:32-164. In cases where the amount due on any judgment, exclusive of  
4 costs, shall be twenty-five dollars (\$25.00) or more, each of the judges of the  
5 several district courts of this State shall, upon petition for discovery in aid  
6 of execution, have the same powers, jurisdiction and authority as are vested  
7 in or exercised by any of the judges of the courts of common pleas of this  
8 State, to order the judgment debtor whether such debtor be an individual  
9 or a corporation to appear before the court, or one of the Supreme Court  
10 commissioners or masters in Chancery of this State, and make discovery on  
11 oath concerning his or its property or things in action before such judge,  
12 commissioner or master, and to make an order forbidding the payment of  
13 debts or transfer of moneys or property due or belonging to such debtor to  
14 such debtor or any third person, and, upon the taking of testimony by such  
15 judge, or the certification by the commissioner or master of the testimony  
16 taken by him under the order, to appoint a receiver of the property and  
17 things in action belonging, or due to, or held in trust for such debtor at the

18 time judgment is recovered, or at any time afterward. Such order may be  
 19 served upon any corporate judgment debtor in the same manner as a sum-  
 20 mons is served upon a corporate defendant in the said district court and  
 21 shall be responded to by the treasurer or other officer of the corporation  
 22 having the custody of, supervision or control over its books of accounts, and  
 23 financial records, who shall appear and make discovery concerning the prop-  
 24 erty and things in action of the corporation pursuant to said order.

1       2. Section 2:32-169 of the Revised Statutes is amended to read as fol-  
 2 lows:

3       2:32-169. If, in a proceeding for discovery in aid of execution in a dis-  
 4 trict court, any party, corporation, officer responding for any corporate  
 5 judgment debtor or witness disobey any order of the judge, or any subpoena  
 6 issued as authorized by section 2:32-166 of this Title and duly served, and  
 7 the fees of such witness paid, the judge of the district court out of which  
 8 such order or subpoena shall issue, upon affidavit being filed with the clerk of  
 9 such court proving the facts, may issue an order to show cause why the  
 10 **[person]** party, corporation, officer responding for any corporate judgment  
 11 debtor or witness served with such order or subpoena shall not be adjudged  
 12 guilty of contempt for his refusal or neglect to obey such order or subpoena.  
 13 The order to show cause shall be made returnable not less than five nor more  
 14 than fifteen days from the date of service thereof. If, upon the return of  
 15 such order and proof of the service of such order being filed with the clerk  
 16 of such court, no sufficient cause be shown, the judge may adjudge such per-  
 17 son or corporation guilty of contempt, and may order a warrant to issue,  
 18 directed to any constable of the county wherein such district court is estab-  
 19 lished, commanding him to arrest such person and forthwith convey him  
 20 before the judge who issued the same, and such judge shall thereupon have  
 21 the power to enforce obedience to such order or subpoena by imprisonment in  
 22 the county jail of the county wherein such district court is established,  
 23 or by imposing a fine of not to exceed fifty dollars (\$50.00) to be paid for the  
 24 use of the city or judicial district, or both by fine and imprisonment, and

25 the person so adjudged guilty of contempt shall stand committed and remain  
26 in close custody until such order or subpoena shall be obeyed and performed  
27 and until the fine so imposed, with costs of such proceedings, to be taxed by  
28 the clerk of such district court, be fully paid, unless otherwise ordered by  
29 such judge. If a corporation be adjudged guilty of contempt, such judge  
30 shall have power to enforce obedience to such order or subpoena by imposing  
31 a fine not to exceed fifty dollars (\$50.00) to be paid for the use of the city or  
32 judicial district, the payment whereof may be enforced by execution issued  
33 against the personal property of such corporation but no proceedings for  
34 contempt for not obeying an order of the judge shall be instituted against a  
35 corporation unless it shall appear that the order was served upon one of the  
36 officers or directors of said corporation.

37 Except as provided by sections 22:2-44 to 22:2-50 of the Title Fees  
38 and Costs, the court, attorney, clerk and officer shall be entitled to the same  
39 fees as for like services in the court of common pleas.

1 3. This act shall take effect immediately.

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#### STATEMENT

The purpose of this bill is to obviate the possibility of a construction of the District Court Act similar to that applied by Justice Heher in Priestman et al. v. Miller Built Homes, Inc., et al., 65 N. J. L. J., page 86 to the statute applicable to the upper courts. It will insure that the remedy of discovery proceedings will be applicable to corporate judgment debtors.

The enactment of this legislation is recommended by the Commission on Statutes.

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8 State, to order the judgment debtor whether such debtor be an individual  
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7 the fees of such witness paid, the judge of the district court out of which  
8 such order or subpoena shall issue, upon affidavit being filed with the clerk of  
9 such court proving the facts, may issue an order to show cause why the  
10 party, corporation, officer responding for any corporate judgment debtor  
11 or witness served with such order or subpoena shall not be adjudged  
12 guilty of contempt for his refusal or neglect to obey such order or subpoena.  
13 The order to show cause shall be made returnable not less than five nor more  
14 than fifteen days from the date of service thereof. If, upon the return of  
15 such order and proof of the service of such order being filed with the clerk  
16 of such court, no sufficient cause be shown, the judge may adjudge such per-  
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28 the clerk of such district court, be fully paid, unless otherwise ordered by  
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