

2A:14-4

LEGISLATIVE HISTORY CHECKLIST

(Limitation of action--
consumer contracts, notes,
and other instruments--
six years)

HJSA 2A:14-4

LAWS OF 1979

CHAPTER 436

Bill No. A.3173

Sponsor(s) Thompson and others

Date Introduced February 26, 1979

Committee: Assembly Judiciary, Law Public Safety and Defense

Senate Judiciary

Amended during passage Yes

XX Senate committee
substitute (2nd OCR)
enacted. Amendments
during passage denoted
by asterisks

Date of Passage: Assembly June 21, 1979

Senate Dec. 17, 1979

Date of approval February 14, 1980

Following statements are attached if available:

Sponsor statement Yes **XX**

Committee Statement: Assembly **XXX** No

Senate Yes **XXX**

(part of original SCS)

Fiscal Note **XXX** No

Also attached: Senate
floor amendments to SCS,
adopted 12/6/79 and
12/17/79, with statements

Veto message **XXX** No

Message on signing **XXX** No

Following were printed:

Reports **XXX** No

Hearings **XXX** No

DEPOSITORY COPY
Do Not Remove From Library

9/1/78

REV. 12/7/99

2-14-80

[SECOND OFFICIAL COPY REPRINT]
 SENATE COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3173

STATE OF NEW JERSEY

ADOPTED DECEMBER 3, 1979

AN ACT concerning the statute of limitations for certain actions at law based upon instruments under seal, and amending N. J. S. 2A:14-4.

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

1 1. N. J. S. 2A:14-4 is amended to read as follows:

2 2A:14-4. Every action at law for rent or arrears of rent, founded
 3 upon a lease under seal, every action at law upon a single or penal
 4 bill under seal for the payment of money only, upon an obligation
 5 under seal conditioned for the payment of money only, upon a
 6 recognizance or upon an award under the hands and seals of arbi-
 7 trators for the payment of money only shall be commenced within
 8 16 years next after the cause of any such action shall have accrued.
 9 If, however, any payment is made on any such lease, specialty,
 10 recognizance or award within or after such period of 16 years, an
 11 action thereon may be commenced within 16 years next after such
 12 payment, and not thereafter.

13 This section shall not apply to any action for breach of any
 14 contract for sale governed by **[section]** *N. J. S. 12A:2-725* **[of the**
 15 **New Jersey Statutes]**.

16 *This section shall also not apply to any action founded upon an*
 17 *instrument under seal brought by a *["merchant" or "financing*
 18 *agency" as defined by N. J. S. 12:2-104]* *merchant or bank,*
 19 *finance company, or other financial institution*. Any such action*
 20 *shall be commenced within 6 years next after the cause of any such*
 21 *action shall have **[commenced]** *accrued**.*

1 2. This act shall take effect immediately.

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

ASSEMBLY, No. 3173

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 26, 1979

By Assemblymen THOMPSON, BAER, Assemblywoman KIERNAN,
Assemblymen BURNS, CONTILLO, MARTIN, HOLLENBECK,
VISOTCKY, Assemblywoman SCANLON, Assemblymen FLYNN,
FORTUNATO, ADUBATO, MAYS, KERN, BATE, PELLECCIA
and HERMAN

Referred to Committee on Judiciary, Law, Public Safety and Defense

AN ACT concerning the statute of limitations and amending N. J. S.
2A:14-1 and repealing N. J. S. 2A:14-4.

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

1 1. N. J. S. 2A:14-1 is amended to read as follows:

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

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

1 2. N. J. S. 2A:14-4 is repealed.

1 3. This act shall take effect immediately.

STATEMENT

Under present law a contract, note or other instrument signed
"under seal" by a consumer is subject to a 16-year statute of
limitations as opposed to the usual 6 years to sue on a contract
or note. Instruments "under seal" in medieval times were sealed

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

in hot wax with the signer's signet ring and, presumably, the signer knew he was bound for a long time in a solemn undertaking. The modern equivalent of a "seal" gives no such warning. The "seal" today is usually preprinted on a contract or note and consists of an attestation clause, such as "Witness my hand and seal" or "Sealed and Delivered," and the word "(Seal)" or initials "(L.S.)" opposite the signed name. In most cases consumers have no idea that they are signing a "sealed" instrument. With these few words a contract, note, or other instrument is controlled by a 16-year statute of limitations, rather than by a 6-year statute of limitations.

This bill would provide that only a 6-year statute of limitations would apply to consumer contracts, notes and other instruments. The 6-year statute of limitations would be more equitable to consumers and spare them from defending lawsuits after memories have faded, witnesses have died or disappeared, and evidence has been lost. It also would spare the courts the litigation of stale claims.

N. J. S. 2A:14-4, repealed by this bill, which provides for a 16-year statute of limitations for "under seal" agreements including rental agreements, a single or penal bill for payment of money, an obligation for the payment of money and an award by arbitrators for the payment of money.

SENATE COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3173

STATE OF NEW JERSEY

ADOPTED DECEMBER 3, 1979

AN ACT concerning the statute of limitations for certain actions at law based upon instruments under seal, and amending N. J. S. 2A:14-4.

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

1 1. N. J. S. 2A:14-4 is amended to read as follows:

2 2A:14-4. Every action at law for rent or arrears of rent, founded
3 upon a lease under seal, every action at law upon a single or penal
4 bill under seal for the payment of money only, upon an obligation
5 under seal conditioned for the payment of money only, upon a
6 recognizance or upon an award under the hands and seals of arbi-
7 trators for the payment of money only shall be commenced within
8 16 years next after the cause of any such action shall have accrued.
9 If, however, any payment is made on any such lease, specialty,
10 recognizance or award within or after such period of 16 years, an
11 action thereon may be commenced within 16 years next after such
12 payment, and not thereafter.

13 This section shall not apply to any action for breach of any
14 contract for sale governed by **[section]** N. J. S. 12A:2-725 **[of the**
15 **New Jersey Statutes]**.

16 *This section shall also not apply to any action founded upon an*
17 *instrument under seal brought by a "merchant" or "financing*
18 *agency" as defined by N. J. S. 12:2-104. Any such action shall be*
19 *commenced within 6 years next after the cause of any such action*
20 *shall have commenced.*

1 2. This act shall take effect immediately.

STATEMENT

Under present law a contract, note or other instrument signed "under seal" is subject to a 16-year statute of limitations as opposed to the usual 6 years to sue on a contract or note. Instruments "under seal" in medieval times were sealed in hot wax with the signer's signet ring, and, presumably, the signer knew he was

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

bound for a long time in a solemn undertaking. The modern equivalent of a "seal" gives no such warning. The "seal" today is usually preprinted on a contract or note and consists of an attestation clause, such as "Witness my hand and seal" or "Sealed and Delivered," and the word "(Seal)" or initials "(L. S.)" opposite the signed name. In most cases consumers have no idea that they are signing a "sealed" instrument. With these few words a contract, note, or other instrument is controlled by a 16-year statute of limitations, rather than by a 6-year statute of limitations.

This bill would eliminate this 16-year statute of limitations on instruments under seal if the action is brought by a merchant or a financing agent (i.e. bank or finance company). Actions on instruments under seal brought by these litigants would be governed by a 6-year statute of limitations.

The applicability of the 6-year statute of limitations would be more equitable to consumers and spare them from defending lawsuits after memories have faded, witnesses have died or disappeared, and evidence has been lost. It also would spare the courts the litigation of stale claims.

SENATE AMENDMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3173

STATE OF NEW JERSEY

ADOPTED DECEMBER 6, 1979

Amend page 1, section 1, lines 17 and 18, after "under seal brought by a", omit "'merchant' or 'financing agency' as defined by N. J. S. 12:2-104", insert "merchant or bank, finance company, or other financial institution".

STATEMENT

This bill would eliminate the 16-year statute of limitations on instruments under seal if the action is brought by a merchant, bank or finance company. It was felt that the use of Uniform Commercial Code definitions in the bill is unduly restrictive and therefore this amendment would substitute general terms.

SENATE AMENDMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3173
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED DECEMBER 17, 1979

Amend page 1, section 1, line 21, omit "commenced", insert
"accrued".

STATEMENT

This amendment makes a technical correction so that the time
prescribed by the statute of limitations may be properly measured.