

17:16C-64.1 et seq.

August 17, 1970

LEGISLATIVE NOTES ON R.S. 17:16C-64.1 et seq
(Home repair contract-holder in due course)

Copy 2

L.1969 - Chapt.237 - A373

Introduced February 3 by Kaltenbacher (and others)

May 12 - page A, amended (copy enclosed)

No statement

-Governor made statement upon signing (copy enclosed)

Clipping enclosed (V.F.---New Jersey--Consumer protection)

Bills protect buying public NEN 5-13-69

New attempt to tighten consumer guards due NEN 1-28-69

Now, bilked buyer can refuse to pay TET 12-18-69

Help for consumers (Editorial) NEN 1-29-69

Moves to aid consumers NEN 1-12-69

Meyer backs two consumer protection bills PI 10-24-69

Homeowers have two bills going for them S.L. 5-13-69

In due course (Editorial) TET 5-13-69

Article located:

New Jersey Banker

Vol 39, No. 3, p. 29 (copy enc)

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ASSEMBLY, No. 373

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 3, 1969

By Assemblymen KALTENBACHER, THOMAS, KEAN,
RINALDI, DENNIS, WILSON, FIORE and CAPUTO

Referred to Committee on Commerce, Industry and Professions

AN ACT to protect the rights of purchasers of goods or services pursuant to a home repair contract and supplementing the "Home Repair Financing Act of 1960," approved June 9, 1960 (P. L. 1960, c. 41).

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

1 1. No home repair contract shall contain any provision relieving
2 the holder, or other assignee, from liability for any ***[legal reme-**
3 **ries]*** **civil remedy sounding in contract** which the owner may
4 have against the home repair contractor under the home repair
5 contract or under any separate instrument executed in connection
6 therewith.

1 2. No home repair contract shall require or entail the execution
2 of any note unless such note shall have printed the words "CON-
3 SUMER NOTE" in 10-point bold type or larger on the face thereof.
4 Such a note with the words "CONSUMER NOTE" printed thereon
5 shall be subject to the terms and conditions of the home repair
6 contract and shall not be a negotiable instrument within the mean-
7 ing of chapter 3 (Commercial Paper) of the Uniform Commercial
8 Code, N. J. S. 12A:3-101 et seq.

1 3. Any person who procures the execution of a note in violation
2 of this act shall be liable to a penalty of not more than \$500.00 for
3 each offense.

1 4. In the event that a note is executed in connection with a home
2 repair contract in violation of this act, no finance, delinquency,
3 collection, repossession or refinancing charges may be recovered in
4 any action or proceeding based on the contract.

1 5. This act shall take effect 90 days after enactment.

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

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ASSEMBLY COMMITTEE AMENDMENT TO
ASSEMBLY, No. 373

STATE OF NEW JERSEY

ADOPTED MAY 5, 1969

Amend page 1, section 1, line 2, delete "legal remedies", and insert
"civil remedy sounding in contract".

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FROM OFFICE OF THE GOVERNOR

Governor Richard J. Hughes today signed Senate Bill No. 53, Assembly Bill No. 373 and Assembly Bill No. 692 with the following statement.

"I have today signed two bills which further advance New Jersey's efforts to protect the consumer public. Similar protections were urged in my Annual Message to the Legislature and it is personally gratifying to be able to sign these measures during my last few months in office.

"With the signing of Senate Bill No. 53, the receiver of any unsolicited goods or merchandise may now use or dispose of such goods as though they were an unconditional gift. The harrassed consumer will no longer be obligated to the sender for either the return of the goods or their value if no request for such goods was ever made.

"Assembly Bill No. 373 will relieve the frustration and hardship caused the consumer by the holder in due course doctrine. Too often when a home repair contractor had performed shoddy work or failed to perform at all, the consumer found that he must nonetheless make payments under the contract as the contractor had sold the consumer's note to a third party. By relying on the holder in due course doctrine, such a third party could demand installment payments of the consumer but was not responsible for any defects or delay in the work done. Under Assembly Bill No. 373, however, the consumer will now be able to sue on an unfulfilled contract even though the note has been sold to a third party for collection.

"It is regrettable that A-373's companion Bill A-374 was not brought to the floor of the Senate for a vote. A-374 would have prevented the holder in due course doctrine from being abused by purchasers of commercial paper in retail installment sales. The testimony of consumers before Committee was replete with experiences where the holder doctrine was raised to relieve the third party from any liability for the most flagrant breaches of warranty. I would urge the Legislature

when it reconvenes to complete its task and respond to the well-documented need to further modify the holder in due course doctrine.

"A third bill I have signed today will also have a significant effect on commercial transactions in New Jersey. Assembly Bill No. 692 provides for the creation of a Uniform Consumer Code Study Commission and appropriates \$25,000 for its use. The Commission is charged with making a thorough study of the impact which adoption of the Uniform Consumer Credit Code in New Jersey would have on present credit laws and practices. The findings and recommendations of the Commission are to be reported to the Legislature at its 1970 session. It is to be hoped that the public members to be appointed by the President of the Senate and the Speaker of the General Assembly will join with my appointee in assuring that an objective review of this important proposed legislation is available to the 1970 Legislature."

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