

25:1-5

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 25:1-5

(Oral credit
agreements--prohibit
certain claims)

LAWS OF: 1991

CHAPTER: 86

Bill No: S2009

Sponsor(s): Orechio

Date Introduced: Pre-filed

Committee: Assembly: Financial Institutions

Senate: Labor, Industry & Professions

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: January 31, 1991

Senate: May 24, 1990

Date of Approval: April 4, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

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STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Senator ORECHIO

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1 AN ACT prohibiting certain claims based on oral credit
2 agreements and amending R.S.25:1-5.

3

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

6 1. R.S.25:1-5 is amended to read as follows:

7 25:1-5. Promises or agreements not binding unless in writing.
8 No action shall be brought upon any of the following agreements
9 or promises, unless the agreement or promise, upon which such
10 action shall be brought or some memorandum or note thereof,
11 shall be in writing, and signed by the party to be charged
12 therewith, or by some other person thereunto by him lawfully
13 authorized:

14 a. A special promise of an executor or administrator to answer
15 damages out of his own estate;

16 b. A special promise to answer for the debt, default or
17 miscarriage of another person;

18 c. An agreement made upon consideration of marriage;

19 d. A contract [or] for sale of real estate, or any interest in or
20 concerning the same; [or]

21 e. An agreement that is not to be performed within one year
22 from the making thereof;

23 f. A contract, promise, undertaking or commitment to loan
24 money or to grant, extend or renew credit, ¹[in an amount
25 greater than \$100,000,]¹ ²in an amount greater than \$100,000,²
26 not primarily for personal, family or household purposes, made by
27 a person engaged in the business of lending or arranging for the
28 lending of money or extending credit. For the purposes of this
29 subsection, a contract, promise, undertaking or commitment to
30 loan money shall include agreements to lease personal property if
31 the lease is primarily a method of financing the obtaining of the
32 property; or

33 g. An agreement by a creditor to forbear from exercising
34 remedies pursuant to a contract, promise, undertaking or
35 commitment which is subject to the provisions of subsection f. of
36 this section.

37 (cf: R.S.25:1-5)

38 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.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AFI committee amendments adopted September 13, 1990.

² Assembly floor amendments adopted January 29, 1991.

- 1
- 2
- 3 Prohibits certain claims based on oral credit agreements.

BANKING AND FINANCE

SENATE, No. 2009
STATE OF NEW JERSEY

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Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Senator ORECHIO

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2 agreements and amending R.S.25:1-5.

3

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9 which such action shall be brought or some memorandum or note
10 thereof, shall be in writing, and signed by the party to be charged
11 therewith, or by some other person thereunto by him lawfully
12 authorized:

13 a. A special promise of an executor or administrator to answer
14 damages out of his own estate;

15 b. A special promise to answer for the debt, default or
16 miscarriage of another person;

17 c. An agreement made upon consideration of marriage;

18 d. A contract [or] for sale of real estate, or any interest in or
19 concerning the same; [or]

20 e. An agreement that is not to be performed within one year
21 from the making thereof;

22 f. A contract, promise, undertaking or commitment to loan
23 money or to grant, extend or renew credit, in an amount greater
24 than \$100,000, not primarily for personal, family or household
25 purposes, made by a person engaged in the business of lending or
26 arranging for the lending of money or extending credit. For the
27 purposes of this subsection, a contract, promise, undertaking or
28 commitment to loan money shall include agreements to lease
29 personal property if the lease is primarily a method of financing
30 the obtaining of the property; or

31 g. An agreement by a creditor to forbear from exercising
32 remedies pursuant to a contract, promise, undertaking or
33 commitment which is subject to the provisions of subsection f. of
34 this section.

35 (cf: R.S.25:1-5)

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STATEMENT

This bill expands the list of contracts that are invalid unless they are in writing under New Jersey law to include business loan contracts over the amount of \$100,000. The bill will ensure that lenders and more sophisticated borrowers mutually agree in writing on commitments that clearly spell out the terms and conditions of credit.

BANKING AND FINANCE

Prohibits certain claims based on oral credit agreements.

ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

SENATE, No. 2009

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 13, 1990

The Assembly Financial Institutions Committee reports favorably Senate Bill No. 2009 with committee amendments.

The bill, as amended, amends a section of New Jersey's statute of frauds (R.S.25:1-5) to provide that business loan agreements or contracts are invalid or unenforceable unless they are in writing. These same restrictions would also apply to agreements or contracts to lease personal property if the lease is primarily a method of financing the property.

The bill further provides that any agreement or contract by a creditor to forbear from exercising any remedy pursuant to such a business loan agreement or contract must be in writing to be valid or enforceable.

The provisions of this bill do not apply to consumer loan agreements or contracts.

An amendment to the bill removed the requirement that a loan would have to be for an amount over \$100,000 in order for the provisions of the bill to apply. As amended, the bill requires all business loan agreements or contracts to be in writing in order to be valid and enforceable.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 2009

STATE OF NEW JERSEY

DATED: APRIL 26, 1990

The Senate Labor, Industry and Professions Committee reports favorably Senate, No. 2009.

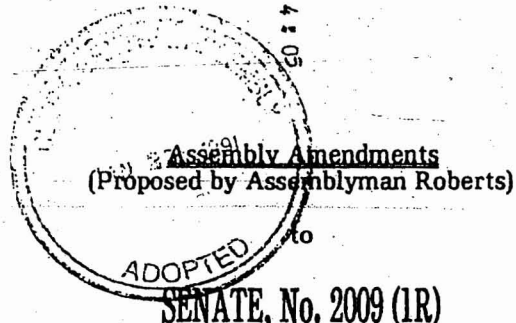
The bill amends a section of New Jersey's statute of frauds (R.S.25:1-5) to provide that business loan agreements or contracts over the amount of \$100,000 are invalid or unenforceable unless they are in writing. These same restrictions would also apply to agreements or contracts to lease personal property if the lease is primarily a method of financing the property.

The bill further provides that any agreement or contract by a creditor to forbear from exercising any remedy pursuant to such a business loan agreement or contract must be in writing to be valid or enforceable.

The provisions of this bill do not apply to consumer loan agreements or contracts or to business loan agreements or contracts of \$100,000 or less.

This bill was pre-filed for introduction in the 1990 session pending technical review. As reported the bill includes the changes required by technical review which has been performed.

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16 MT 6
4 2 05



~~Speaker
Clerk (3)
Majority Leader
Minority Leader
Sponsor of Aa
Sponsor of Bill~~

(Sponsored by Senator OREGHIO)

1 REPLACE SECTION 1 TO READ:
2 1. R.S.25:1-5 is amended to read as follows:
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10 a. A special promise of an executor or administrator to answer
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12 b. A special promise to answer for the debt, default or
13 miscarriage of another person;
14 c. An agreement made upon consideration of marriage;
15 d. A contract [or] for sale of real estate, or any interest in or
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17 e. An agreement that is not to be performed within one year
18 from the making thereof;
19 f. A contract, promise, undertaking or commitment to loan
20 money or to grant, extend or renew credit, ¹[in an amount
21 greater than \$100,000,]¹ ²in an amount greater than \$100,000,²
22 not primarily for personal, family or household purposes, made by
23 a person engaged in the business of lending or arranging for the
24 lending of money or extending credit. For the purposes of this
25 subsection, a contract, promise, undertaking or commitment to
26 loan money shall include agreements to lease personal property if
27 the lease is primarily a method of financing the obtaining of the
28 property; or
29 g. An agreement by a creditor to forbear from exercising
30 remedies pursuant to a contract, promise, undertaking or
31 commitment which is subject to the provisions of subsection f. of
32 this section.
33 (cf: R.S.25:1-5)

STATEMENT

39 The amendment to Senate, No. 2009 (1R) provides that
40 promises or agreements to make business loans in an amount
41 greater than \$100,000 must be in writing to be binding.