

12A:3-106

LEGISLATIVE HISTORY CHECKLIST  
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NJSA: 12A:3-106 (UCC-variable rate)  
LAWS OF: 1991 CHAPTER: 355  
Bill No: S2431  
Sponsor(s): DiFrancesco  
Date Introduced: March 8, 1990  
Committee: Assembly: ---  
Senate: Labor  
Amended during passage: No  
Date of Passage: Assembly: December 2, 1991  
Senate: May 9, 1991  
Date of Approval: January 9, 1992  
Following statements are attached if available:  
Sponsor statement: Yes  
Committee Statement: Assembly: No  
Senate: Yes  
Fiscal Note: No  
Veto Message: No  
Message on signing: No  
Following were printed:  
Reports: No  
Hearings: No

KBG/dgw

1 AN ACT concerning negotiable instruments under the Uniform  
2 Commercial Code and amending N.J.S. 12A:3-106.

3  
4 BE IT ENACTED by the Senate and General Assembly of the  
5 State of New Jersey:

6 1. N.J.S. 12A:3-106 is amended to read as follows:  
7 12A:3-106. Sum certain.

8 (1) The sum payable is a sum certain even though it is to be  
9 paid

10 (a) with stated interest, a stated rate of interest or by stated  
11 installments; or

12 (b) with stated different rates of interest before and after  
13 default or a specified date; or

14 (c) with a stated discount or addition if paid before or after  
15 the date fixed for payment; or

16 (d) with exchange or less exchange, whether at a fixed rate or  
17 at the current rate; or

18 (e) with costs of collection or an attorney's fee or both upon  
19 default.

20 (2) Nothing in this section shall validate any term which is  
21 otherwise illegal.

22 (3) A rate of interest that cannot be calculated by looking only  
23 to the instrument is "a stated rate of interest" in subsection (1)  
24 of this section if the rate is readily ascertainable by a reference  
25 in the instrument to a published statute, regulation, rule of court,  
26 generally accepted commercial or financial index, compendium of  
27 interest rates, or announced or established rate of a named  
28 financial institution.

29 (cf: N.J.S. 12A:3-106)

30 2. This act shall take effect immediately.

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33 STATEMENT

34  
35 This bill amends one of the provisions in the Uniform  
36 Commercial Code which establish the criteria for a negotiable  
37 instrument by providing that a variable rate of interest which  
38 requires reference to a source outside the instrument itself in

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.

S2431

2

1 order to ascertain the amount due would not make the instrument  
2 non-negotiable. Some courts in other states have ruled that  
3 instruments with variable interest rates tied to a market or other  
4 index are non-negotiable.

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COMMERCE AND INDUSTRY

7

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9

Provides that instruments with variable rate of interest tied to a  
market index are negotiable.

SENATE, No. 2431

STATE OF NEW JERSEY

INTRODUCED MARCH 8, 1990

By Senator DiFRANCESCO

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SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 2431

STATE OF NEW JERSEY

DATED: MAY 17, 1890

The Senate Labor, Industry and Professions Committee reports favorably Senate Bill No. 2431.

This bill amends one of the criteria for a negotiable instrument under the Uniform Commercial Code by providing that an instrument with a rate or variable rate of interest which requires reference to a source outside the instrument itself in order to ascertain the amount due would not make the instrument non-negotiable. Acceptable sources outside the instrument for a rate or variable rate of interest would be a published statute, regulation, rule of court, generally accepted commercial or financial index, compendium of interest rates, or announced or established rate of a named financial institution.

Some courts in other states have ruled that a note providing for a variable rate of interest not ascertainable from the face of the note, such as one tied to a market or other index, is not a negotiable instrument.