

July 22, 1971

LEGISLATIVE HISTORY OF R.S.49:3-40

L.1963, Chapter 192 was amended by:

L.1967 - Chapter 96 - A-613  
Feb.6 - Introduced by Tanzman  
Apr.3 - Passed in Assembly  
Apr.24 - Passed in Senate  
June24 - Approved, Chapter 96  
Not amended during passage  
No statement on the bill

No hearings or reports were located.

Checked Vertical File N.J.-Securities, 1967 without success.

Regulations: Title 13, Chapter 13 of the New Jersey  
Administrative Code.

JH/EH

ASSEMBLY, No. 613

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 6, 1967

By Assemblymen YESKO and TANZMAN

Referred to Committee on Business Affairs

AN ACT to amend and supplement the "Real Estate Syndication Offerings Law," approved March 5, 1964 (P. L. 1963, c. 192).

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

3 1. Section 17 of the act of which this act is amendatory and sup-  
4 plementary is amended to read as follows:

5 17. Any person who shall willfully violate any provision of this  
6 law or of any rule or order made under this law or who shall  
7 knowingly make any false or misleading statement in any offering  
8 statement or prospectus filed pursuant to this law shall be guilty  
9 of a misdemeanor and be fined not more than **[\$1,000.00]** \$5,000.00  
10 or imprisoned not more than 3 years, or both, but no person may  
11 be imprisoned for the violation of any rule or order if he proves  
12 that he had no knowledge of the rule or order and no indictment  
13 or information may be returned under this law more than 5 years  
14 after the alleged violation.

15 2. (a) The bureau chief in his discretion (1) may make such  
16 private investigations within or outside of this State as he deems  
17 necessary to determine whether any person has violated or is  
18 about to violate any provisions of the "Real Estate Syndication  
19 Offerings Law" or any rule or order hereunder, or to aid in the  
20 enforcement of said law or in the prescribing of rules and forms  
21 hereunder, (2) may require or permit any person to file a state-  
22 ment in writing, under oath or otherwise as the bureau chief  
23 determines, as to all the facts and circumstances concerning the  
24 matter to be investigated, and (3) may publish information con-  
25 cerning any violation of the "Real Estate Syndication Offerings  
26 Law" or any rule or order hereunder, provided that there shall  
27 be no publication until such order or rule becomes effective;

28 (b) For the purpose of any investigation or proceeding under  
29 the "Real Estate Syndication Offerings Law," the bureau chief

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

1 or any officer designated by him may administer oaths and affirma-  
2 tions, subpoena witnesses, compel their attendance, take evidence  
3 and require the production of any books, papers, correspondence,  
4 memoranda, agreements or other documents or records which the  
5 bureau chief deems relevant or material to the inquiry;

6 (c) In case of contumacy by, or refusal to obey a subpoena issued  
7 to, any person, the Superior Court, upon application by the bureau  
8 chief, may issue to the person an order requiring him to appear  
9 before the bureau chief, or the officer designated by him, there to  
10 produce documentary evidence if so ordered or to give evidence  
11 touching the matter under investigation or in question. The court  
12 may grant injunctive relief restraining the issuance, sale or offer  
13 for sale, purchase or offer to purchase, promotion, negotiation,  
14 advertisement or distribution from or within this State of any  
15 securities by a person, or agent, employee, broker, partner, officer,  
16 director or stockholder thereof, until such person has fully complied  
17 with such subpoena and the bureau has completed its investigation.  
18 The court may proceed in the action in a summary manner or  
19 otherwise.

20 (d) No person is excused from attending and testifying or from  
21 producing any document or record before the Bureau of Securities,  
22 or in obedience to the subpoena of the bureau chief or any officer  
23 designated by him, or in any proceeding instituted by said bureau,  
24 on the ground that the testimony or evidence (documentary or  
25 otherwise) required of him may tend to incriminate him or subject  
26 him to a penalty or forfeiture; but no individual may be prose-  
27 cuted or subjected to any penalty or forfeiture for or on account  
28 of any transaction, matter or thing concerning which he is com-  
29 pelled, after claiming his privilege against self-incrimination, to  
30 testify or produce evidence (documentary or otherwise), except  
31 that the individual testifying is not exempt from prosecution and  
32 punishment for perjury, false swearing or contempt committed  
33 in testifying.

34 (e) When it shall appear to the bureau chief that the testimony  
35 of any person is essential to an investigation instituted by him  
36 as provided by the "Real Estate Syndication Offerings Law,"  
37 and that the failure of such person to appear and testify may  
38 defeat the proper and effective conduct thereof, the bureau chief,  
39 in addition to the other remedies provided for therein, may, by  
40 petition verified generally, setting forth the facts, apply to the  
41 Superior Court for a writ of ne exeat against such person. The  
42 court shall thereupon direct the issuance of the writ against such  
43 person requiring him to give sufficient bail conditioned to insure

1 his appearance before the bureau chief for examination under  
2 oath in such investigation and that he will continue his appearance  
3 therein from time to time until the completion of the investigation  
4 and will appear before the court if the bureau chief shall institute  
5 any proceeding therein as a result of his investigation.

6 The court shall cause to be endorsed on the writ of ne exeat, in  
7 words at length, a suitable amount of bail upon which the person  
8 named in the writ shall be freed, having a due regard to the nature  
9 of the case and the value of the securities involved. All applica-  
10 tions to be freed on bail shall be on notice to the bureau chief and  
11 the sufficiency of the bail given on the writ shall be approved by  
12 the court. All recognizances shall be to the State and all forfei-  
13 tures thereof shall be declared by the court. The proceeds of the  
14 forfeitures shall be paid into the State treasury.

15 3. (a) When it shall appear to the bureau chief that a person  
16 has engaged in, is engaging in, or is about to engage in, any  
17 practices declared to be illegal and prohibited by the "Real Estate  
18 Syndication Offerings Law" or when it shall appear that it will  
19 be against the public interest for any person to issue, sell, offer  
20 for sale, purchase, offer to purchase, promote, negotiate, advertise  
21 or distribute any securities from or within this State, the Attorney  
22 General on his behalf may bring an action in the Superior Court  
23 and apply therein for injunctive relief, or the appointment of a  
24 receiver, or both. The court may proceed in the action in a summary  
25 manner or otherwise;

26 (b) If it shall appear to the court in the action that such person  
27 has engaged in, is engaging in, or is about to engage in any  
28 practice declared to be illegal and prohibited by the "Real Estate  
29 Syndication Offerings Law," it may enjoin such person, and any  
30 agent, employee, broker, partner, officer, director or stockholder  
31 thereof, from continuing such practices or engaging therein or  
32 doing any acts in furtherance thereof. The court may also enjoin  
33 the issuance, sale, offer for sale, purchase, offer to purchase, pro-  
34 motion, negotiation, advertisement or distribution from or within  
35 this State of any securities by such persons, and any agent, em-  
36 ployee, broker, partner, officer, director or stockholder thereof,  
37 until the court shall otherwise order;

38 (c) When the court shall grant injunctive relief as provided for  
39 in paragraph (b), it may appoint a receiver with power to sue for,  
40 collect, receive and take into his possession all the goods and  
41 chattels, rights and credits, moneys and effects, lands and tene-  
42 ments, books, records, documents, papers, choses in action, bills,  
43 notes and property of every description, derived by means of any

1 practice declared to be illegal and prohibited by the "Real Estate  
2 Syndication Offerings Law," including property with which such  
3 property has been mingled, if it cannot be identified in kind  
4 because of such comingling, and to sell, convey and assign the  
5 same and hold and dispose of the proceeds thereof under the  
6 direction of the court for the equal benefit of all who establish  
7 an interest therein by reason of the use and employment by the  
8 defendant of any practices herein declared to be illegal and pro-  
9 hibited. The receiver may retain an attorney with the consent  
10 of the Attorney General and the court. The court shall have juris-  
11 diction of all questions arising in such proceedings and may make  
12 such orders and judgments therein as justice shall require;

13 (d) When injunctive relief is granted as provided for in para-  
14 graph (b) against a corporation, partnership, company, associa-  
15 tion or trust, the court may appoint a receiver and may restrain  
16 the corporation, its officers, directors, stockholders, and agents,  
17 the partnership, company or association, its officers, members and  
18 agents, and the trust, its grantors, trustees, officers, cestius que  
19 trustent and agents, from exercising any of its privileges or  
20 franchises, and in the case of a trust from executing the trust,  
21 and in all cases from collecting or receiving any debts, or paying  
22 out, selling, assigning or transferring any of its estate, moneys,  
23 funds, lands, tenements or effects except to the receiver appointed  
24 by the court until the court shall otherwise order.

25 Upon the appointment of the receiver, all the real and personal  
26 property of the corporation, partnership, company, association or  
27 trust, and its franchises, rights, privileges and effects shall forth-  
28 with vest in him and the corporation, partnership, company,  
29 association or trust shall be divested of the title thereto.

30 The receiver shall settle the estate and distribute the assets,  
31 and have all the powers and duties conferred upon receivers by  
32 the provisions of Title 14, of the Revised Statutes, so far as the  
33 provisions thereof are applicable.

34 4. This act shall take effect on January 1, 1968.

STATEMENT OF GOVERNOR RICHARD J. HUGHES ON SIGNING  
OF ASSEMBLY BILL NOS. 403, 406, 613 and 830  
AND SENATE BILL NOS. 15 and 327

I am pleased today to sign into law several bills which constitute significant steps toward increased protection for the New Jersey consumer in many important areas.

Briefly, these measures involve the following protection to the consumer:

Revision of the Small Loans Act to provide numerous changes, most important of which from the standpoint of the public being the elimination of wage assignments in connection with collections on such loans and the requirement that the borrower at the time of negotiating the loan receive a statement setting forth the true rate of interest. This is Assembly Bill No. 403.

Assembly Bill No. 406, another significant step toward consumer protection, requires the posting in all hotel, motel and guest-house rooms <sup>of</sup> the charges for the renting of such rooms. In addition, this measure provides for penalties for failure to comply.

The signing of Assembly Bill No. 613 marks the strengthening of the Real Estate Syndication Law by increasing the penalties for violation and giving considerable enforcement powers to the Bureau of Securities to eliminate any undesirable practices in the selling of real estate syndications.

With the establishment of the Consumer Fraud Bureau this year, New Jersey took a long step toward protecting the consuming public from a multitude of unscrupulous practices. The signing into law today of Assembly Bill No. 830 provides a means for the Attorney General's office, through the Bureau of Consumer Frauds, to enforce provisions of the Consumer Fraud Law effectively. It does so by permitting the Attorney General to hold hearings on consumer fraud violations so as to omit the necessity of lengthy court action in many instances.

Senate Bill No. 15 requires the marking of milk cartons with the day of the week on which the milk was pasteurized, rather than the present system of number markings which to some degree has been confusing to the public.

Finally, Senate Bill No. 327 revises the State Uniform Securities Law and for the first time requires the filing of registration statements prior to the sale of securities to the public. This measure, I am certain, will be of great assistance in protecting the public, particularly the unsophisticated buyer of securities, so that he may be fully alerted to any risks involved in such purchases.