

**SUPREME COURT
STATE OF CONNECTICUT**

SC 19216

SIKORSKY FINANCIAL CREDIT UNION, INC.

V.

WILLIAM D. BUTTS

BRIEF OF AMICUS CURIAE

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Whether postjudgment interest may be awarded at the contract rate, if any, where plaintiff waived its claim under the retail installment contract by taking possession of the vehicle.

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S.C. 19216

SIKORSKY FINANCIAL CREDIT UNION, INC.

SUPREME COURT

V.

WILLIAM D. BUTTS

May , 2014

AMICUS CURIAE BRIEF

INTEREST OF AMICUS. The National Association of Consumer Advocates (NACA) files this amicus brief with permission.¹ NACA is a nonprofit corporation. Its members are private and public sector attorneys, legal services attorneys, and law professors and students whose primary practice or area of study involves the protection and representation of consumers. NACA's mission is to promote justice for all consumers by maintaining a forum for information sharing among consumer advocates across the country and to serve as a voice for its members and consumers to promote the public policy to curb unfair business practices. Compliance with repossession statutes is one of the significant interests of NACA and its members.

FACTS. Sikorsky Financial Credit Union, Inc. (Sikorsky) sued Mr. Butts for a deficiency based on the repossession and resale of his vehicle. (Appx. A6-8). It did not sue on the contract. It could not seek recovery on the contract, as explained herein. Sikorsky was awarded judgment, including postjudgment interest at two percent pursuant to the trial court's equitable discretion under Gen. Stat. §37-3a. Sikorsky appealed, claiming that the postjudgment rate should be the contract rate of 9.14 percent. The Appellate Court confirmed the discretionary award at 2 percent. Sikorsky FCU v Butts, 144 Conn. App. 310 (2013). Sikorsky petitioned for certification, which this Court granted.

¹ No counsel or party wrote or contributed to the cost of this brief in whole or in part.

The certified issue -- whether postjudgment interest should continue at the contract rate -- must be answered in the negative because the judgment awarded was based on a deficiency after a repossession. The judgment did not arise from the contract, because Sikorsky elected not to pursue its contractual remedies. Neither our repossession statutes nor case law allows a contractual recovery after repossession. Moreover, the contract does not unambiguously provide for postjudgment interest.

The decision of the Appellate Court properly applied Connecticut law and should therefore be affirmed.

ARGUMENT

I. CONTRACTUAL POSTJUDGMENT INTEREST COULD NOT BE AWARDED.

This Court has emphasized Connecticut's strong public policy to encourage creditors to comply with repossession laws and protect consumers. Jacobs v. Healey Ford-Subaru, Inc., 231 Conn. 707, 722-24 (1995). Connecticut's repossession laws do not allow a recovery upon contract.

Election of remedies between contract and security. When Sikorsky repossessed the vehicle, it elected to waive its contractual remedies and proceed against the security. Accordingly, no contract rate of interest applies. See §36a-785(h):

Election of remedies. After the holder retakes possession as provided in subsection (a), or if the holder obtains a prejudgment remedy against the goods under chapter 903a, the retail buyer or anyone who has succeeded to his obligations shall not be liable for any balance due, except to the extent permitted by subsection (g) of this section. The holder may seek a monetary judgment on the contract against the buyer **unless** the goods have been repossessed, with or without judicial process. . . . (Emphasis added.)

This Court has held, in line with many cases elsewhere, that an action on a note does not survive repossession. Cf. Mack Financial Corp. v. Crossley, 209 Conn. 163, 167 (1988). Repossession is an election of remedies which disaffirms the contract. At common law, a creditor that took possession of the security had elected its remedy; no right to enforce the underlying contract remained. Winchester v. Northwest Assoc., 255 Conn. 379, 387, 388 n. 7 (2001); Linden Condominium Assn., Inc. v. McKenna, 247 Conn. 575, 587 (1999).

The “election of remedies” principle has long been applied to repossessions. At common law, retaking possession of the item sold was a complete defense to an action on the contract. Crompton v. Beach, 62 Conn. 25, 34-36 (1892) (once there has been a repossession, an action for the price, or any unsatisfied balance of it, is not allowed, apart from statute); Zazzaro v. Colonial Acceptance Corp., 117 Conn. 251, 256-57 (1933) (“It could either treat the sale as an absolute one and sue on the note, or it could retake and retain the car. It could not retain possession of the car and at the same time recover upon the note.”); Walcott v. Fallon, 118 Conn. 220, 223 (1934) (“the conditional vendor may not treat the transaction as a valid sale and an invalid one at the same time”).

Sikorksy elected its remedy under statute and case law by taking possession of the car. Accordingly, as a matter of law, it waived any claim under the contract, including the contract rate of interest. Rizzo Pool Co. v. Del Grosso, 240 Conn. 58, 76 (1997) (“when contracts are limited by statutory provisions, those provisions are generally considered to be incorporated therein as a matter of law.”). Sikorsky’s suit properly sought only a deficiency; it did not sue on the contract because §36a-785(h) precluded recovery on contract.

Thus, prejudgment interest at the contract rate and attorney's fees were improperly awarded, because there was no extant contract. Postjudgment interest at the contract rate *could* not be awarded because Sikorsky had elected its remedy to repossess rather than sue on the contract.

II. THE CONTRACT DID NOT PROVIDE FOR POSTJUDGMENT INTEREST

The contract included clauses under the heading "2. Your other promises to us." However, subsections d-f are not promises by the consumer, but describe Sikorsky's post-repossession practices. The clauses are not contractual in nature. Subsection f (Appx. A-46) mentions interest, but it expressly contemplates that no interest may be owing when as here "the law provides otherwise":

"If the amount we apply [the greater of the money from the sale or the market value of the vehicle] (less allowed expenses) is not enough to pay all you owe, you must pay the rest to us, **unless the law provides otherwise**. If you do not pay [the deficiency balance] when we ask, we may charge you interest at a rate not exceeding the highest lawful rate until you pay." (Emphasis added.)

Here, the law does provide otherwise. A creditor is permitted to recover a deficiency only after it complies with the repossession statutes. It is wrong to say "you must pay the rest to us" because Gen Stat. §36a-785(h) is specific that the consumer "shall not be liable for any balance due, except to the extent permitted by subsection (g) of this section." The contract itself agrees that "Federal law and the law of the state of our address shown on the front of this contract apply to this contract." Par. 6 (Appx. A-47).

The law does not permit Sikorsky to merely "ask" for payment and then charge interest. The clause was illegal and unenforceable, since the controlling repossession statutes and case law do not allow the contract to be the basis for interest once Sikorsky

had elected its remedy.

Significantly, subsection f does not even purport to provide for interest at the contract rate, but at an indefinite and undefined “highest lawful rate.” The clause is too open-ended to be contractual.

Had the interest clause survived the repossession, it is so ambiguous as to be meaningless. It is not couched in contractual terms such as “you agree to pay.” Instead, it says “we may charge you interest.” The “may” sentence, construed against its drafter, did not purport to specifically authorize postjudgment interest, as the Appellate Court recognized.

The word “may” is described grammatically as a modal verb, with multiple meanings. If Sikorsky used “we may” to mean “we are permitted to,” or “we are able to,” its assertion was wrong as a matter of law. If Sikorsky used “we may” to mean “we might,” it is so tentative as to be non-contractual, as well as deceptive. Use of such a tentative phrase has long been recognized as deceptive for its tendency or capacity to mislead or deceive the consumer. If a clause is misleading, it cannot be the basis for a contractual agreement.

In the collection context, the assertion that a collector “may” or “could” take an illegal or unintended action is widely recognized as deceptive. Floersheim v. F.T.C., 411 F.2d 874, 876 (9th Cir 1969) (creditor “may request” an Attorney to attach); Lox v. CDA, Ltd., 689 F.3d 818, 826 (7th Cir. 2012) (“may take legal steps” is misleading on its face); Gonzales v. Arrow Financial Services, LLC, 660 F.3d 1055, 1063 (9th Cir. 2011) (“Conditional language, particularly in the absence of any language clarifying or explaining the conditions, does not insulate a debt collector from liability.”); Brown v. Card Serv. Ctr., 464 F.3d 450, 455 (3d Cir. 2006) (“could result in” legal action); Ruth v. Triumph P’ships,

577 F.3d 790, 801–02 (7th Cir. 2009) (“to the extent permitted by law” was misleading because there were no circumstances under which the law actually permitted the threatened act); Bentley v. Great Lakes Collection Bureau, 6 F.3d 60, 61–63 (2d Cir. 1993) (letters stating “were our client to retain legal counsel in your area, and it was determined that suit should be filed against you, it could result in a judgment” conveys the erroneous impression that the debt collector had the authority to decide to institute legal action); Rosa v. Gaynor, 784 F. Supp. 1, 3 (D. Conn. 1989) (Cabranes, J.) (use of word “may” does not make a letter any less deceptive).

The deceptive or misleading clause “we may charge you interest” does not allow Sikorsky to self-adjudicate prejudgment interest or postjudgment interest; both are within the provenance and equitable discretion of the court, and should remain so.

III. POSTJUDGMENT INTEREST COULD BE ASSESSED ONLY AS AN EQUITABLE DETERMINATION WITHIN THE DISCRETION OF THE TRIAL COURT

Sikorsky’s argument that a contract rate applies postjudgment is based exclusively on Gen. Stat. §37-1. At the same time, Sikorsy admits that §37-1 “speaks only to interest after maturity and is wholly silent and contains no language speaking to postjudgment interest.” Br. at 5. Longstanding principles of statutory interpretation apply here, including that a specific statutory provision controls the general. Lagueux v. Leonardi, 148 Conn. App. 234, 242-43 (2014).

Postjudgment interest was not allowed at common law. Little v. United Nat. Investors Corp., 160 Conn. 534, 536 (1971). Statutes in derogation of common law are strictly construed. Wilton Meadows Ltd. Partnership v. Coratolo, 299 Conn. 819, 825-26 (2011) (“strictly construed and not enlarged in its scope by the mechanics of construction”).

Private parties cannot confer upon the court, by contract, jurisdiction to assess postjudgment interest where it is not conferred by statute. Cf. Housatonic R. Co., Inc. v. Commissioner of Revenue Services, 301 Conn. 268, 289-90 (2011).

Unlike some other states, Connecticut has not derogated from the common law by adopting an express provision for postjudgment interest at a contractual rate. Little, 160 Conn. at 536. Section 37-1 and its predecessors governed only the general accrual of interest, but §37-3a and its predecessors controlled the postjudgment interest that could be awarded by a court. Amicus attaches an appendix showing the statutory history of the relevant sections.

Present §37-3a was enacted after the repeal of §37-3 in the wake of Little. 1972 Public Act 292, “An Act Concerning Interest on Judgments,” effective May 24, 1972. The legislative history (attached) notes that “What we are doing is restoring and clarifying the fact that interest at the rate of 6% shall be obtainable on judgements.” Sen. Jackson, May 2, 1972 at 2564. Rep. Oliver noted “[W]e were left since last October 1st with no statute whatsoever with respect to interest on judgments.” House, May 3, 1972 at 3098.

Section 37-3a, like its predecessors, intentionally capped the postjudgment interest rate at “six per cent a year, and no more.” This plain language “and no more” precludes any higher contractual rate of interest. The section expressly caps what interest a court may allow; it very specifically even “include[es] actions to recover money loaned at a greater rate.” Also confirming that the plain language of §37-3a supersedes most contract rates as to postjudgment interest, the section includes a particular exception for the contract rate of another state but only where both “the maker of the contract is a resident of another state” and there is any holder “residing in this state”; such a resident holder may recover

contractual interest “not exceeding the legal rate of interest in the state where such contract purports to have been made.”

Gen. Stat. § 52-349 mandated that postjudgment interest automatically accrue. Little, 160 Conn. at 537.² That section -- expressly relied on by Little -- was repealed effective July 14, 1983, in connection with a comprehensive act reforming and consolidating postjudgment remedies. Rizzo Pool Co., 240 Conn. at 68-69 (1997); Misiurka v Maple Hill Farms, Inc., 15 Conn. App. 381 n. 5 (1988).

Section 52-349, with its “shall” language, was not replaced or reenacted. Section 37-3a, with its “may” language, continued in existence. The discretionary nature of postjudgment interest, requiring an application for postjudgment interest and a court award, thus continues as it has for more than a century. The discretionary nature of postjudgment interest is confirmed by Gen Stat. § 52-350f, enacted in 1983 using the term “may” in tandem with §37-3a: “Enforcement of money judgment. Costs, fees and interest. A money judgment may be enforced against any property of the judgment debtor. . . . The money judgment may be enforced . . . with (2) interest as provided by chapter 673.”

Connecticut courts have consistently applied equitable principles to postjudgment interest, awarding such interest under §37-3a. “Common sense dictates that a party seeking the award of postjudgment interest must file a postjudgment motion because the award can be determined only after judgment has been rendered.” Bower v. D’Onfro, 696 A.2d 1285, 1289 (Conn. App. 1997). See also MedValUSA Health Programs, Inc. v.

² Sec. 52-349. Interest on judgments collected on executions. Legal interest on the amount of the judgment shall be collected on the execution issued thereon; legal interest upon the amount of the verdict from the time it was rendered shall be collected on the execution upon the judgment.

MemberWorks, Inc., 273 Conn. 634, 640 (2005). The equitable and discretionary nature of postjudgment interest is well established in Connecticut law, based on the use of the terms “may” and “no more” in §37-3a. Urich v. Fish, 112 Conn. App. 837, 843-44 (2009).

Undoubtedly, one of the equitable considerations that a court can apply is the contractual rate between the parties, as long as it does not exceed the comprehensive usury laws which co-exist, in Chapter 673, with the specific statutes in derogation of the common law limiting postjudgment interest.

The salutary nature of equitable discretion in applying postjudgment interest rates is plain. In the current economy market rates are at historical lows, bank rates are less than one percent; mortgage rates are low, and the time value of money is negligible. Postjudgment interest in federal court is set by the federal funds rate, 28 U.S.C. §1961, at present a fraction of one percent. Equitable discretion enables courts to apply current value to a judgment, rather than allowing a judgment to be the most sought-after investment in the marketplace because of long-outdated contract rates.

NACA respectfully reminds the Court that any decision in this case can affect many other types of collection cases. Debt buyers pay pennies on the dollar, so any judgment is automatically at least a 2,000 percent windfall.³ It ill behoves the judicial system to allow debt buyers to oppress unrepresented consumers by adding a postjudgment rate not justified by the economy. See, e.g., Peter A. Holland, *The One Hundred Billion Dollar Problem in Small Claims Court: Robo–Signing and Lack of Proof in Debt Buyer Cases*, 6 J. BUS. & TECH. L. 259 (2011); Rick Jurgens & Robert J. Hobbs, *The Debt Machine: How*

³ “Most debt buyers acquire the debts for a fraction of the balance, but then attempt to collect the entire debt.” *Gonzales v. Arrow Financial Services, LLC*, 660 F.3d 1055, 1059 (9th Cir. 2011).

the Collection Industry Hounds Consumers and Overwhelms Courts, THE NAT'L CONSUMER LAW CTR (July 2010), [http:// www.nclc.org/images/pdf/pr-reports/debt-machine.pdf](http://www.nclc.org/images/pdf/pr-reports/debt-machine.pdf); FED. TRADE COMM'N, REPAIRING A BROKEN SYSTEM: PROTECTING CONSUMERS IN DEBT COLLECTION LITIGATION AND ARBITRATION (2010), <http://www.ftc.gov/os/2010/07/debtcollectionreport.pdf>; http://www.americanbanker.com/issues/179_29/courthouse-rocket-dockets-give-debt-collectors-edge-over-debtors-1065545-1.html; Dalie Jiminez, Dirty Debts Sold Cheap, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2250784.

Many small claims magistrates, and even judges, are not aware of federal and state limitations on interest that can be charged to a consumer. For instance, a credit card issuer cannot charge interest when it has stopped sending periodic statements under the Truth in Lending Act, 15 U.S.C. 1637(b); 12 C.F.R. §226.5(b)(2)(i).

Because interest rates should reflect a reasonable return on money, this Court should not allow contracting parties to oust the judicial system of its discretionary consideration of various factors in awarding postjudgment interest.

CONCLUSION

NACA respectfully requests that the Court affirm the rulings.

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STATUTORY APPENDIX
(IN CHRONOLOGICAL ORDER)

REVISION OF 1875.

THE
GENERAL STATUTES

OF THE

STATE OF CONNECTICUT,

WITH THE

DECLARATION OF INDEPENDENCE,

THE

CONSTITUTION OF THE UNITED STATES,

AND THE

CONSTITUTION OF CONNECTICUT.



Published by authority of the State.

HARTFORD:
THE CASE, LOCKWOOD & BRAINARD CO., PRINTERS.
1874.

CHAPTER V

Interest.

SEC. 1. Legal rate: forfeiture for usury. | SEC. 2. Rate after loan becomes payable.

SEC. 1. The compensation for forbearance of property loaned at a fixed valuation, or for money, shall, in the absence of any agreement to the contrary, be at the rate of seven per cent. a year; and no more shall be taken for forbearance than at such rate upon any contract for such loan; but the borrower may pay, or agree to pay, the taxes assessed and paid upon the loan, except when made by a savings bank, and the insurance upon the estate mortgaged to secure the loan, or both; and, in computing interest, three hundred and sixty days may be considered to be a year; and any person who shall receive for forbearance more than at the rate herein authorized shall forfeit the value of the money or property so received to any person, who shall sue therefor within one year thereafter.*

1838.
1862. 1872.
1873. 1874.
Legal rate.

SEC. 2. Interest at the rate of seven per cent. a year, and no more, may be recovered and allowed in civil actions, including actions to recover money loaned at a greater rate, as damages, for the detention of money after it becomes payable.†

Forfeiture for usury.

1873. 1874.
Rate after loan becomes payable.

1875 p. 21 } May receive the rate lawful in
 } and other State
Pawn brokers may take 25 p. ct. 1875, 48
1877 p. 221 } May be pledge after 6 mos. in
 } Lands.
1877 p. 252

PART I. Land Titles.
PART II. Boundaries.
PART III. Common Lands.

PART I.

Land Titles.

certificate of land taken
appraisal 1882 p. 147

SECTION

SECTION

- 1. Fee simple, an absolute property. Patents from General Assembly of Colony, valid.
- 2. Lands given to charitable uses.
- 3. Limitation to prevent perpetuities.
- 4. Rule in Shelley's case, and collateral warranties abolished.
- 5. Conveyances, how made.
- 6. Deeds by or to corporations may be witnessed, &c., by stockholders.
- 7. Deeds in conformity with laws of other States, when valid.
- 8. Mortgages to State, how released.
- 9. Caveats, when and how to be entered.
- 10. Lands of married women, how conveyed.
- 11. Deeds to be recorded.
- 12. Certified copy may be recorded, when.
- 13. Record of defective instruments, and contracts for conveyance of lands.

- 14. Leases, how executed.
- 15. Deeds of land by persons ousted of possession, void.
- 16. Holding over not evidence of further lease, and leases for one month.
- 17. Tenant not liable for rent when premises are untenable.
- 18. Power of surviving executor to sell.
- 19. Right to light, not gained by possession.
- 20. Right to land within limits of railroad or canal, not gained by possession.
- 21. Release of mortgage, how compelled.
- 22. Release of mortgage by executor, &c.
- 23. Award of arbitrators, when evidence of title
- 24. Courts of equity may order guardian to convey interest of his ward.

Acquiring of
leasehold by
adverse use
1881 p. 105

Notice of lis pendens to be filed in town
clerk's office 1849 p. 389

SEC. 1. Every proprietor in fee simple of lands has an absolute and direct dominion and property in the same, and all patents and grants of lands

1692. 1793. 1821.
Fee simple, an absolute property. Patents from General Assembly of the Colony valid.

* The rate of interest was established in 1702 at six per cent. and so remained until 1872, when parties were permitted to contract for any rate. In 1873 the maximum was fixed at seven per cent., and in 1874 this was made the legal rate, where the parties did not agree to take less.

† See 29 Conn., 270; 83 Conn., 431, 570.

THE
GENERAL STATUTES OF CONNECTICUT,

REVISION OF 1887;

IN FORCE JANUARY FIRST, 1888:

WITH THE

DECLARATION OF INDEPENDENCE,

THE CONSTITUTION OF THE UNITED STATES,

AND

THE CONSTITUTION OF THE STATE OF CONNECTICUT.



Published by Authority of the State.

HARTFORD, CONN.:
THE CASE, LOCKWOOD & BRAINARD COMPANY, PRINTERS.
1887.

risks, or effecting insurance or re-insurance for a person other than himself, and not being the appointed agent or officer of the company in which such insurance or re-insurance is effected, or the duly authorized agent of any other company legally admitted to do business in this State, shall be deemed an insurance broker, and no person shall act as such broker except as provided in this and the two succeeding sections.

Sec. 2936. The Insurance Commissioner may, upon the payment of a fee of ten dollars, issue to any person a certificate of authority to act as an insurance broker to negotiate contracts of insurance or re-insurance, or place risks, or effect insurance or re-insurance with any qualified domestic insurance company or its agents, and with the authorized agents in this State of any foreign insurance company duly admitted to do business in this State.

1887, ch. 55, § 2.
License to insurance broker.

Sec. 2937. Such certificate shall remain in force for one year, unless revoked by the commissioner for cause. Such cause shall exist upon conviction of the holder of such certificate of a violation of the insurance laws, and whenever it shall appear to the commissioner, upon due proof after notice, that the holder has unreasonably failed and neglected to pay over to the company or agent entitled thereto any premium or part thereof collected by him on any policy of insurance. The commissioner shall publish such revocation in such manner as he deems suitable for the protection of the public.

1887, ch. 55, § 3.
Term of license.
When and how revoked.

Sec. 2938. All certificates or licenses issued by the Insurance Commissioner of this State to companies or associations existing under the laws of any other State or foreign government or to any agent of any such company or association, shall expire, unless the same be sooner revoked, April first of each year.

1880, ch. 113, § 1.
1887, ch. 141.
Certificates and licenses when to expire.

Sec. 2939. Every person or corporation violating any provision of this title for which no penalty is provided shall be fined not less than one hundred nor more than five hundred dollars.

1879, ch. 63, art. 4, § 25.
General penalty.

Sec. 2940. Every person who shall violate any laws of this State relating to insurance companies organized under the laws of other States or foreign governments shall be fined one hundred dollars.

G. S. 1875, 527.
Penalty for violation of insurance laws by foreign and non-resident companies.

TITLE XLVIII.

INTEREST.

CHAPTER CLXXIV.

SECTION
2941. Legal rate.
2942. Rate after loan payable.

SECTION
2943. No set-off or recovery back.

Sec. 2941. The compensation for forbearance of property loaned at a fixed valuation, or for money, shall, in the absence of

1877, ch. 151.
Legal rate.
42 Conn., 524, 570.
44 Conn., 493.

any agreement to the contrary, be at the rate of six per cent. a year; and, in computing interest, three hundred and sixty days may be considered to be a year.

1875, ch. 36.
1877, ch. 161.
Rate after loan payable.
Taxes and insurance.
29 Conn., 268.
33 Conn., 431, 570.
44 Conn., 300.
46 Conn., 586.
47 Conn., 417.

Sec. 2942. Interest at the rate of six per cent. a year, and no more, may be recovered and allowed in civil actions, including actions to recover money loaned at a greater rate as damages for the detention of money after it becomes payable. But judgment may be given in any court for the recovery of taxes assessed and paid upon the loan, and the insurance upon the estate mortgaged to secure the loan whenever the borrower has agreed in writing to pay such taxes or insurance, or both. And whenever the maker of any contract is a resident of another State, or the mortgage security is located in another State, any obligee or holder of such contract, residing in this State, may lawfully recover any agreed rate of interest, or damages on such contract until it is fully performed, not exceeding the legal rate of interest in the State where such contract purports to have been made, or such mortgage security is located.

1877, ch. 151.
No set-off or recovery back.

Sec. 2943. No borrower of money shall be permitted to set off or recover back, by any proceeding in court, any sum of money paid by way of interest, discount, or damages, for the detention of money, in excess of the rate of six per cent. a year.

TITLE XLIX.

BUREAU OF LABOR STATISTICS.

CHAPTER CLXXV.

SECTION

2944. Bureau of Labor Statistics.
2945. Appointment of commissioner; tenure of office, vacancy.
2946. Rooms; clerk, compensation.

SECTION

2947. Duties of commissioner.
2948. Report.
2949. Employment and compensation of special agents.

1885, ch. 119, § 1.
Bureau of Labor Statistics.

Sec. 2944. There shall continue to be a Bureau of Labor Statistics, to be under the control and management of the commissioner thereof, to be appointed as hereinafter provided.

1885, ch. 119, § 2.
Commissioner; appointment, tenure, vacancy, removal.

Sec. 2945. The Governor shall, with the consent of the Senate, within sixty days after the organization of the General Assembly in January, 1891, and every four years thereafter, appoint a commissioner of said bureau who shall hold his office from the first day of the succeeding July, for a term of four years, and until his successor is appointed and qualified. In case of vacancy in the office of commissioner, through death, resignation, inability, or removal, the Governor shall fill the same until filled in the manner above provided for the appointment of commissioner; and the Governor may remove the commissioner for cause.

Sec. 1154. On every execution issued on a judgment, legal interest on the amount of the judgment shall be collected. G. S. 1875, 453.
Interest on judgment.

Sec. 1155. Executions may be of the form following :

To the sheriff of the county of H., &c., Greeting. Whereas, G. S. 1875, 453.
Forms of execution.
2 Conn., 402.
7 Conn., 6.
27 Conn., 488. C. D. of W., on the _____ day of _____ 18 _____, before J. H., Esq., justice of the peace for said county, recovered judgment against A. B. of H., for the sum of _____ dollars and _____ cents, debt (damages), and _____ dollars and _____ cents, costs of suit, as appears of record, whereof execution remains to be done :

These are therefore, by authority of the State of Connecticut, to command you, that of the goods or lands of the said A. B., within your precincts, you cause to be levied, and (the same being disposed of as the law directs) paid and satisfied unto the said C. D., the said sums, being _____ dollars, and _____ cents, in the whole, with interest on the amount of said judgment from said date thereof to the time when this execution shall be satisfied ; and also, that out of the said moneys, goods, or lands, you levy twenty-five cents more for this writ, together with your own fees.

[And for want of such goods, of the said A. B., to be by him shown unto you, or found within your precincts, for satisfying said sums, you are hereby commanded to take his body, and him commit unto the keeper of the jail in H., in said county, within said prison; who is likewise hereby commanded to receive the said A. B. and him safely keep, until he pay unto the said C. D. the full sums above mentioned, and be by him released, and also satisfy your fees.]

Hereof fail not, and make due return of this writ, with your doings therein, unto the said J. H., Esq., within sixty days next coming.

Dated at H. this _____ day of _____ 18 _____.

J. H., Justice of the peace.

To the sheriff of the county of H., &c., Greeting. Whereas C. D. of W. recovered judgment on the _____ day of A. D. 18 _____, against A. B. of F. before the Superior Court, holden at H., within said county on the _____ Tuesday of _____ for the sum of _____ dollars, and _____ cents, debt (damages), and _____ dollars, and _____ cents costs of suit, as appears of record, whereof execution remains to be done :

These are therefore by authority of the State of Connecticut, to command you, that of the goods, or lands of the said A. B., within your precincts, you cause to be levied, and (the same being disposed of, or appraised, as the law directs) paid and satisfied unto the said C. D., the aforesaid sums, being _____ dollars, and _____ cents, in the whole, with interest on the amount of said judgment from its date, namely, the _____ day of _____ 18 _____, to the time when this execution is satisfied, with twenty-five cents more for this writ, and thereof also to satisfy yourself for your own fees. [And for want of such goods of the said A. B., to be by him shown unto you, or found within your precincts, to the acceptance of the said C. D., for satisfying said sums, you are hereby commanded to

THE
GENERAL STATUTES OF
CONNECTICUT

Revision of 1902

IN FORCE JULY FIRST, 1902

WITH THE
CONSTITUTION OF THE UNITED STATES
AND THE
CONSTITUTION OF THE STATE OF CONNECTICUT



Published by Authority of the State

HARTFORD PRESS
THE CASE, LOCKWOOD & BRAINARD COMPANY
1902

TITLE FORTY-FIVE.

INTEREST.

CHAPTER 257. CH. 257. 1867 CH. 258.

§ 4598. Legal rate of interest. The compensation for forbearance of property loaned at a fixed valuation, or for money, shall, in the absence of any agreement to the contrary, be at the rate of six per cent. a year; and, in computation of interest, three hundred and sixty days may be considered to be a year.

1702, 1833, 1869, 1873, 1873, 1874, 1877. Rev. 1888, §2911.

§ 4599. No recovery after payment. No borrower of money shall be permitted to set off or recover back, by any proceeding in court, any sum of money paid by way of interest, discount, or damages, for the detention of money, in excess of the rate of six per cent. a year.

1877. Rev. 1888, §2948.

§ 4600. Rate recoverable as damages. Interest at the rate of six per cent. a year, and no more, may be recovered and allowed in civil actions, including actions to recover money loaned at a greater rate, as damages for the detention of money after it becomes payable. Judgment may be given for the recovery of taxes assessed and paid upon the loan, and the insurance upon the estate mortgaged to secure the loan, whenever the borrower has agreed in writing to pay such taxes or insurance, or both. Whenever the maker of any contract is a resident of another state, or the mortgage security is located in another state, any obligee or holder of such contract, residing in this state, may lawfully recover any agreed rate of interest, or damages on such contract until it is fully performed, not exceeding the legal rate of interest in the state where such contract purports to have been made, or such mortgage security is located.

1873, 1874, 1875, 1877. Rev. 1888, §2942.

§4600. 75 Conn. 430.

Section 4600. 78 Conn. 325.

1. The rate of interest was fixed in 1702 at six per cent., and so remained until 1872, when it was permitted to contract for any rate. In 1873 the maximum was fixed at seven per cent. and in 1874 this was made the legal rate in absence of agreement for a less rate. In 1877 the rate was fixed at six per cent. in the absence of agreement to the contrary.

§ 4598. Allowed because of contract express or implied or as damages. 22 C. 392. Note with fifteen per cent. after maturity"; the per cent. held to be interest and not damages. 42 C. 111-127. Effect of validating act, subsequently repealed, on usurious contract for interest. 42 C. 111; 50 C. 214. A note on which the interest is payable quarterly at the legal rate is not usurious. 44 C. 494. The law notes the running of interest at the legal rate where the principal is due. 56 C. 114. The taking of interest in advance on a demand note constitutes an agreement to forbear for that time. 63 C. 87-90.

§ 4600. Allowed as damages on breach of written contract to pay on a fixed day. 1 C. 33; 41 C. 615. Allowed on balance of liquidated accounts but not on current mutual accounts. 1 C. 34; 44 C. 500.

§ 4600. Contract for compound interest is void, when. 17 C. 247; 46 C. 182. Interest is not recoverable, as damages, after payment of principal. 19 C. 531, 532. Allowed in action of debt, as damages, not as interest. 27 C. 370. Interest, as damages, computed at the rate of the place of detention. 29 C. 270; 33 C. 431; 33 C. 576. May be allowed at the rate agreed as against one making specific performance. 47 C. 538. Allowed in estimating damages, on value of goods from time of destruction. 60 C. 142. Interest paid in advance cannot be recovered if principal be paid before time expires. 63 C. 86-88.

Rev. 1875, p. 400, §54.
Rev. 1888, §1268.
§ 896.
85 Conn. 578.

§ 896. Judgment debt attached; stay of execution. If any judgment debt be taken by foreign attachment, the issue of the execution on such judgment or its levy, if already issued, shall be stayed during the continuance of the lien of such attachment; and the time during which such stay is continued shall be excluded in computing the time within which such execution must be levied in order to preserve any attachment lien created by or in the original suit.

CHAPTER 58.

Execution.

§ 897.
1913 Ch. 144.
§ 897.
80 Conn. 431.

1880.
Rev. 1888, §1154.
See §4698.

§ 897. Interest on judgment. Legal interest on the amount of the judgment shall be collected on the execution issued thereon.

1702, 1880, 1870.
Rev. 1888, §1155.

§ 898. Form of execution. Executions may be of the form following:

To the sheriff of the county of _____, his deputy, or either of the constables of the town of _____, within said county, Greeting, Whereas A. B. of _____ on the _____ day of _____ 19____, recovered judgment against C. D. of _____, before the superior court holden at _____ within and for the county of _____ on the _____ Tuesday of _____, A.D. 19____ (or before E. F., a justice of the peace for the county of _____), for the sum of _____ dollars and _____ cents debt (or damages), and _____ dollars and _____ cents, costs of suit, as appears of record, whereof execution remains to be done:

These are, therefore, by authority of the state of Connecticut, to command you, that of the goods, or lands of the said C. D., within your precincts, you cause to be levied (the same being disposed of, or appraised, as the law directs), paid, and satisfied unto the said A. B., the aforesaid sums, being _____ dollars and _____ cents, in the whole, with interest on the amount of said judgment from its date, namely, the _____ day of _____, 19____, to the time when this execution shall be satisfied, with twenty-five cents more for this writ, and thereof also to satisfy yourself for your own fees.

(And for want of such goods of the said C. D., to be by him shown unto you, or found within your precincts, to the acceptance of the said A. B. for satisfying said sums, you are hereby commanded to take the body of the said C. D., and him commit unto the keeper of the jail in _____, in said county, within said prison; who is likewise hereby commanded to receive the said C. D., and him safely keep, until he pay unto the said A. B. the full sums above mentioned, and be by him released, and also satisfy your fees.

Hereof fail not, and make due return of this writ, with your doing therein. Dated at _____, this _____ day of _____ 19____.

G. H., Clerk (or E. F., Justice of the Peace).

1821.
Rev. 1888, §1156.

§ 899. Executions how directed; when returnable. Executions may be directed to any proper officer, who shall serve and return them according to

§ 898. Where the body is taken the execution is in terms a mittimus. 60 C. 431. Cited C. 154.

§ 899. Debtor need not reside in officer's precincts. K. 182. Executions, when returnable next court. 1 R. 101; 5 C. 169. Levy upon chattels not invalidated by a failure to return to execution. 45 C. 388. It is otherwise with mesne process. *Id.*

THE GENERAL STATUTES OF CONNECTICUT



Revision of 1918

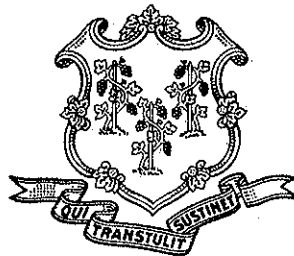
In Force July 1st, 1918.

WITH THE

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HARTFORD PRESS
THE CASE, LOCKWOOD & BRAINARD COMPANY
1918

The label or brand used in marking any standard closed package shall be in block letters and figures in size not less than thirty-six point Gothic.

1915, ch. 181.

Sec. 4793. Penalty. Any officer, manager or agent of a corporation or association, or any other person who shall sell or offer or expose for sale any package of apples purporting to be a standard closed package, which fails to conform to the provisions of sections 4790, 4791 or 4792 shall be fined not more than one hundred dollars.

CHAPTER 238.

Food in Packages.

1911, ch. 134.

Sec. 4794. Sale of food in package form; weight; marking. Every person who shall sell or offer for sale food in package form, unless the net quantity of the contents be plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count, shall be subject to the penalties provided in section 2446, *provided*, reasonable variations shall be permitted, and allowances shall be established by rules and regulations made from time to time by the dairy and food commissioner and the director of the Connecticut Agricultural Experiment Station. The definitions of the terms "food" and "person" as given in sections 2437 and 2448 respectively, shall apply to the provisions of this section, *provided*, the term "food" as used herein, shall not include confectionery and shelled nuts when offered for sale in packages at a price not exceeding ten cents each.

TITLE XLIII.

INTEREST.

CHAPTER 239.

Rev. 1902.
Sec. 4598.

Sec. 4795. Legal rate. The compensation for forbearance of property loaned at a fixed valuation, or for money, shall, in the absence of any agreement to the contrary, be at the rate of six per centum a year; and, in computing interest, three hundred and sixty days may be considered to be a year.

Sec. 4794. Purpose of this law. 88 C. 355.

Chap. 239. The rate of interest was fixed in 1702 at six per cent, and so remained until 1872, when parties were permitted to contract for any rate. In 1873 the maximum was fixed at seven per cent, and in 1874 this was made the legal rate in absence of agreement for a less rate. In 1877 the rate was fixed at six per cent, in the absence of agreement to the contrary.

Sec. 4795. Allowed because of contract express or implied or as damages. 22 C. 392; 72 C. 705. Note "with fifteen per cent after maturity"; the per cent *held* to be interest and not damages. 42 C. 524-527. Effect of validating act subsequently repealed, on usurious contract for interest. 42 C. 574; 56 C. 214. A note on which the interest is payable quarterly at the legal rate is not usurious. 44 C. 494. The law takes note of the running of interest at the legal rate where the principal is due. 56 C. 114. The taking of interest in advance on a demand note constitutes an agreement to forbear for that time. 63 C. 87-90. Agreed rate governs till default, then legal rate; exceptions. 78 C. 323. Generally, any rate agreed on is lawful. 76 C. 388. Effect of insolvency of bank on its liability to pay interest. 88 C. 206.

Sec. 4796. No recovery after payment. No borrower of money shall be permitted to set off or recover back, by any proceeding in court, any sum of money paid by way of interest, discount or damages, for the detention of money, in excess of the rate of six per centum a year.

Rev. 1902.
Sec. 4599.

Sec. 4797. Rate recoverable as damages. Interest at the rate of six per centum a year, and no more, may be recovered and allowed in civil actions, including actions to recover money loaned at a greater rate, as damages for the detention of money after it becomes payable. Judgment may be given for the recovery of taxes assessed and paid upon the loan, and the insurance upon the estate mortgaged to secure the loan, whenever the borrower has agreed in writing to pay such taxes or insurance or both. Whenever the maker of any contract is a resident of another state, or the mortgage security is located in another state, any obligee or holder of such contract, residing in this state, may lawfully recover any agreed rate of interest, or damages on such contract until it is fully performed, not exceeding the legal rate of interest in the state where such contract purports to have been made or such mortgage security is located.

Rev. 1902.
Sec. 4600.

Sec. 4797
98 Conn. 689

Sec. 4797
107 Conn. 278,
280

Sec. 4798. Loans at greater rate than twelve per centum prohibited. No person and no firm or corporation or agent thereof, other than a pawnbroker as provided in section 3011, shall, as guarantor or otherwise, directly or indirectly, loan money to any person and, directly or indirectly, charge, demand, accept or make any agreement to receive, therefor, interest at a rate greater than twelve per centum per annum.

1907, ch. 238.
1911, ch. 244.
1915, ch. 143.

Sec. 4798
101 Conn. 557,
558, 559, 561,
102 Conn. 37

Sec. 4798
107 Conn. 280

Sec. 4799. Notes not to be accepted for greater amounts than loaned. No person and no firm or corporation or agent thereof, shall, with intent to evade the provisions of section 4798, accept a note or notes for a greater amount than that actually loaned.

1907, ch. 238.
1911, ch. 244.

Sec. 4799
101 Conn. 557,
558, 560

Sec. 4797. Allowed as damages on breach of written contract to pay on a fixed day. 1 C. 33; 41 C. 613. Allowed on balance of liquidated accounts but not on current mutual accounts. 1 C. 34; 46 C. 590; but see 70 C. 435. Contract for compound interest is void, when. 17 C. 247; 46 C. 182. Interest is not recoverable, as damages, after payment of principal. 19 C. 531, 532. Allowed in action of debt, as damages, not as interest. 27 C. 370. Interest, as damages, computed at the rate of the place of detention. 29 C. 270; 33 C. 431; 33 C. 576. May be allowed at the rate agreed as against one seeking specific performance. 47 C. 588. Allowed in estimating damages, on value of goods from time of destruction. 60 C. 142. Interest paid in advance cannot be recovered if principal be paid before time expires. 63 C. 86-88. Compounding interest where trustee invests funds unlawfully. 67 C. 187. Interest may be charged against partner settling affairs of firm; 70 C. 411; or withdrawing more than his share. 87 C. 241. Allowance of, as damages, in tort action; 72 C. 705; or on recovery for change of grade; 72 C. 288; but see 82 C. 51; or failure to account for money due. 69 C. 228; 75 C. 298; 80 C. 92. As to interest on assessment of benefits for public improvement, see 84 C. 121; 85 C. 552. If not included in judgment, cannot be recovered in action on judgment. 78 C. 35. Interest on judgment debt where debtor enjoined from paying it. 80 C. 426. Where recoverable in action on breach of contract, runs from what time. 81 C. 343. When recoverable in action of debt on bond. 81 C. 252. Claims against estate of decedent carry interest from disallowance. 82 C. 572. Recoverable in action on non-negotiable note. 82 C. 618. Interest on coupon bond payable at bank. 80 C. 58; see 70 C. 1. Interest on note allowed in foreclosure though action on note is barred. 75 C. 429. Interest may be allowed on amount due from insurance company; 79 C. 389; or from bank on deposit. 82 C. 8. So where debtor retains money from assignee; but not, if he is mere stakeholder. 82 C. 175. Attorney may recover interest on amount due him for services. 86 C. 346. From what time it runs where one fails to keep agreement to pay another's debt; 87 C. 49; where no time specified for payment for work. 75 C. 300.

Sec. 4798. This section valid. 82 C. 232; 83 C. 1; 218 U. S. 563, 572. Meaning of "mortgage"; assignment of wages. 82 C. 232. Whether contract is made in evasion of this section is question of fact. 91 C. 601.

solvent debtor, shall be attached, the attaching creditor may, within the time limited for the presentation of claims against such estate, present the debt so by him attached to the commissioners on such estate, and may appear and be heard in relation thereto, and shall have the same right of appeal as the defendant; but such presentation and proof of any debt by an attaching creditor shall inure to his benefit alone, and shall not prevent such debt from being barred as against the original owner thereof, if not presented by him.

Rev. 1902.
Sec. 894.

Sec. 5929. Death of garnishee pending attachment. If any executor, administrator or trustee, in whose hands any debt, legacy or distributive share shall have been so attached, shall die or be removed pending the proceedings either on the original writ or on the *scire facias*, upon proper suggestion being made upon the record such proceedings may be continued against the survivor, or his successor in such trust, as the case may be, in the same manner as they might otherwise have been against the original garnishee or garnishees.

Rev. 1902.
Sec. 895.

Sec. 5930. Levy of execution as a discharge of garnishee. The taking of any effects or debt by judgment of law out of the hands of an agent, trustee or debtor of the owner thereof, by process of foreign attachment, shall forever discharge such garnishee.

Rev. 1902.
Sec. 896.

Sec. 5931. Judgment debt attached; stay of execution. If any judgment debt be taken by foreign attachment, the issue of the execution on such judgment, or its levy, if already issued, shall be stayed during the continuance of the lien of such attachment; and the time during which such stay is continued shall be excluded in computing the time within which such execution must be levied in order to preserve any attachment lien created by or in the original suit.

1927 Ch. 303
Sec. 1
1929 Ch. 233
Sec. 1

CHAPTER 303.

Executions.

Rev. 1902.
Sec. 897.
1913, ch. 144.

See Sec. 4795.

Sec. 5932. Interest on judgment. Legal interest on the amount of the judgment shall be collected on the execution issued thereon, and in all cases where a motion is made to set aside a verdict and said motion is denied by the trial court, and an appeal is taken to the supreme court of errors, if the action of the trial court is sustained and judgment rendered thereon, the same shall draw interest from the date when such verdict was rendered.

Sec. 5930. Payment treated as one made under statute, when. 28 C. 251. A conditional note is a sufficient payment to protect garnishee, when. 2 D. 498. Prior demand on principal debtor not necessary for protection of garnishee. 20 C. 409. Refers solely to a discharge of the claim of the judgment debtor. 48 C. 412.

Sec. 5932. Interest on judgment collection of which is stayed by injunction allowed when. 80 C. 431.

Sec. 5932
105 Conn. 244

sale, in this state, shall be sold or offered for sale by weight. No person, firm or corporation shall deliver any coal unless such delivery shall be accompanied by a delivery ticket and a duplicate thereof, on which shall be distinctly expressed, in ink or other indelible substance, in pounds, the weight of the coal contained in such vehicle or receptacle, together with the name of the seller and the name of the purchaser of such coal. One of such tickets shall be surrendered, upon demand, to the sealer of weights and measures, for his inspection, and such ticket or, when the sealer shall desire to retain the original ticket, a weight slip issued by the seller shall be delivered to the purchaser or his agent or representative, at the time of the delivery of such coal, and the other ticket shall be retained by the seller. If the purchaser or his agent shall take such coal from the place of purchase, a delivery ticket, showing the actual number of pounds delivered, shall be given to the purchaser or his agent, at the time of delivery. Any person who shall violate any provision of this section shall be fined not more than two hundred dollars or imprisoned not more than six months or both.

TITLE XLVI.

INTEREST.

CHAPTER 241.

Ch. 241
1931 Ch. 236
Sec. 3
110 Conn. 259

Ch. 241
Ref.
Sec. 1003 b

Ch. 241
Ref.
Sec. 1467 c
117 Conn. 253

Ch. 241
125 Conn. 315

Sec. 4729. Legal rate. The compensation for forbearance of property loaned at a fixed valuation, or for money, shall, in the absence of any agreement to the contrary, be at the rate of six per centum a year; and, in computing interest, three hundred and sixty days may be considered to be a year. 1918, S. 4795
[Sec. 4729
126 Conn. 461]

Sec. 4730. No recovery after payment. No borrower of money shall be permitted to set off or recover back, by any proceeding in court, any sum of money paid by way of interest, discount or damages, for the detention of money, in excess of the rate of six per centum a year. 1918, S. 4796

Chap. 241. The rate of interest was fixed in 1702 at six per cent, and so remained until 1872, when parties were permitted to contract for any rate. In 1873 the maximum was fixed at seven per cent, and in 1874 this was made the legal rate in absence of agreement for a less rate. In 1877 the rate was fixed at six per cent, in the absence of agreement to the contrary. For history see 107 C. 278.

Sec. 4729. Allowed because of contract express or implied or as damages. 22 C. 392; 72 C. 705. Note "with fifteen per cent after maturity"; the per cent held to be interest and not damages. 42 C. 524-527. Effect of validating act subsequently repealed, on usurious contract for interest. 42 C. 574; 56 C. 214. A note on which the interest is payable quarterly at the legal rate is not usurious. 44 C. 494. The law takes note of the running of interest at the legal rate where the principal is due. 56 C. 114. The taking of interest in advance on a demand note constitutes an agreement to forbear for that time. 63 C. 87-90. Agreed rate governs till default, then legal rate; exceptions. 78 C. 323. Generally, any rate agreed on is lawful. 76 C. 388. Effect of insolvency of bank on its liability to pay interest. 88 C. 206. See notes to Sec. 4732.

1930 Rev

1918, S. 4797

Sec. 4731	124 Conn. 336, 338, 340
Sec. 4731	129 Conn. 292
Sec. 4731	131 Conn. 463

Sec. 4731. Rate recoverable as damages. Interest at the rate of six per centum a year, and no more, may be recovered and allowed in civil actions, including actions to recover money loaned at a greater rate, as damages for the detention of money after it becomes payable. Judgment may be given for the recovery of taxes assessed and paid upon the loan, and the insurance upon the estate mortgaged to secure the loan, whenever the borrower has agreed in writing to pay such taxes or insurance or both. Whenever the maker of any contract is a resident of another state, or the mortgage security is located in another state, any obligee or holder of such contract, residing in this state, may lawfully recover any agreed rate of interest, or damages on such contract until it is fully performed, not exceeding the legal rate of interest in the state where such contract purports to have been made or such mortgage security is located.

1918, S. 4798

Sec. 4732	111 Conn. 87
Sec. 4732	113 Conn. 571, 572
Sec. 4732	117 Conn. 255, 118 Conn. 2, 3, 4
Sec. 4732	120 Conn. 663, 664, 665, 668, 671
Sec. 4732	123 Conn. 95, 96, 99, 100, 102, 124 Conn. 488, 125 Conn. 317
Sec. 4732	126 Conn. 338
Sec. 4732	128 Conn. 61
Sec. 4732	Ref. Sec. 819 h 130 Conn. 554 131 Conn. 19

Sec. 4732. Loans at greater rate than twelve per centum prohibited. No person and no firm or corporation or agent thereof, other than a pawnbroker as provided in section 2950, shall, as guarantor or otherwise, directly or indirectly, loan money to any person and, directly or indirectly, charge, demand, accept or make any agreement to receive, therefor, interest at a rate greater than twelve per centum per annum.

Sec. 4731. Allowed as damages on breach of written contract to pay on a fixed day. 1 C. 33; 41 C. 613. Allowed on balance of liquidated accounts but not on current mutual accounts. 1 C. 34; 46 C. 590; but see 70 C. 435. Contract for compound interest is void, when. 17 C. 247; 46 C. 182. Interest is not recoverable, as damages, after payment of principal. 19 C. 531, 532. Allowed in action of debt, as damages, not as interest. 27 C. 370. Interest, as damages, computed at the rate of the place of detention. 29 C. 270; 33 C. 431; 33 C. 576. May be allowed at the rate agreed as against one seeking specific performance. 47 C. 588. Allowed in estimating damages, on value of goods from time of destruction. 60 C. 142. Interest paid in advance cannot be recovered if principal be paid before time expires. 63 C. 86-88. Compounding interest where trustee invests funds unlawfully. 67 C. 187. Interest may be charged against partner settling affairs of firm; 70 C. 411; or withdrawing more than his share. 87 C. 241. Allowance of, as damages, in tort action; 72 C. 705; or on recovery for change of grade; 72 C. 288; but see 82 C. 51; or failure to account for money due. 69 C. 228; 75 C. 298; 80 C. 92. As to interest on assessment of benefits for public improvement, see 84 C. 121; 85 C. 552; 95 C. 6. If not included in judgment, cannot be recovered in action on judgment. 78 C. 35. Interest on judgment debt where debtor enjoined from paying it. 80 C. 426. Where recoverable in action on breach of contract, runs from what time. 81 C. 343. When recoverable in action of debt on bond. 81 C. 252; 95 C. 25 ff. Claims against estate of decedent carry interest from disallowance. 82 C. 572. Recoverable in action on non-negotiable note. 82 C. 618. Interest on coupon bond payable at bank. 80 C. 58; see 70 C. 1. Interest on note allowed in foreclosure though action on note is barred. 75 C. 429. Interest may be allowed on amount due from insurance company; 79 C. 389; or from bank on deposit. 82 C. 8. So where debtor retains money from assignee; but not, if he is mere stakeholder. 82 C. 175. Attorney may recover interest on amount due him for services. 86 C. 346. From what time it runs where one fails to keep agreement to pay another's debt; 87 C. 49; where no time specified for payment for work. 75 C. 300. In sale of goods for cash, interest is allowed in action for goods sold from time of sale or date of delivery. 98 C. 696. Not recoverable where detention of money is by agreement; nor where amount is unliquidated. 95 C. 341. Where insurance company absolutely denies liability interest is chargeable from date of action. 97 C. 344. Does not prevent recovery of higher rate after maturity where promissory note expressly provides that higher rate is then payable. 107 C. 278; but limited by 4732 to twelve per centum. *Id.*, 280.

Sec. 4732. This section valid. 82 C. 232; 83 C. 1; 218 U. S. 563, 572. Meaning of "mortgage"; assignment of wages. 82 C. 232. Whether contract is made in evasion of this section is question of fact. 91 C. 601; necessity of proving wrongful intent. 94 C. 148; 101 C. 558. Does not apply to "guarantee of a loan." 93 C. 647. Particularity required in information. *Id.*, 646. Does not apply to receipt of higher rate of interest as a gift. *Id.*, 668. Defense of usury on part of indorser in due course. 97 C. 320; 99 C. 684; of accommodation indorser with knowledge of usurious agreement. 101 C. 560; 102 C. 37. "Agreement" constitutes separate offense. 93 C. 669. Cited. 107 C. 280.

1930 Rev

CHAPTER 299.

Executions.

Sec. 5781. Interest on judgment. Legal interest on the amount of the judgment shall be collected on the execution issued thereon, and in any case in which a motion shall be made to set aside a verdict and such motion shall be denied by the trial court and an appeal shall be taken to the supreme court of errors, if the action of the trial court shall be sustained and judgment rendered thereon, the same shall draw interest from the date when such verdict was rendered.

1918, S. 5932
 Sec. 5781 Amdt. Sec. 1416 e
 See Sec. 4729
 Sec. 5781 112 Conn. 453. 454
 Sec. 5781 Amdt. Sec. 847 d

Sec. 5782. Form of execution. An execution may be in following form:

To the sheriff of the county of, his deputy, or either of the constables of the town of, within said county, Greeting: Whereas A. B. of on the day of, 19. . ., recovered judgment against C. D. of, before the superior court holden at within and for the county of (or before E. F., a justice of the peace for the county of), for the sum of dollars and cents debt (or damages), and dollars and cents, costs of suit, as appears of record, whereof execution remains to be done:

These are, therefore, by authority of the State of Connecticut, to command you, that of the goods or lands of the said C. D., within your precincts, you cause to be levied (the same being disposed of, or appraised, as the law directs), paid, and satisfied unto the said A. B., the aforesaid sums, being dollars and cents, in the whole, with interest on the amount of said judgment from its date, namely, the day of, 19. . ., to the time when this execution shall be satisfied, with twenty-five cents more for this writ, and thereof also to satisfy yourself for your own fees.

(And for want of such goods of the said C. D., to be by him shown unto you, or found within your precincts, to the acceptance of the said A. B., for satisfying said sums, you are hereby commanded to take the body of the said C. D., and him commit unto the keeper of the jail in, in said county, within said prison; who is likewise hereby commanded to receive the said C. D., and him safely keep, until he pay unto the said A. B., the full sums above mentioned, and be by him released, and also satisfy your fees.)

Hereof fail not, and make due return of this writ, with your doings thereon. Dated at, this day of, 19.
 G. H., Clerk (or E. F., Justice of the Peace).

Sec. 5781. Interest on judgment collection of which is stayed by injunction allowed when. 80 C. 431. Computation of interest where judgment is affirmed except for addition of one item in bill of particulars. 105 C. 244.
Sec. 5782. Where the body is taken the execution is in terms of *mittimus*. 60 C. 431. Cited 71 C. 154. Where defendant dies and executor is cited in, execution should be restricted to property under attachment. 88 C. 100.

1930 Rev

House Bill No. 7256

PUBLIC ACT NO. 782

AN ACT CONCERNING DISCLOSURE OF BENEFICIARIES OF REAL PROPERTY HELD IN TRUST.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Any person who makes an application to a planning commission, zoning commission or zoning board of appeals pertaining to real property, the record title to which is held by a trustee of an undisclosed trust, shall file with said application a sworn statement disclosing the name of the equitable owner of such real property or the beneficiary of the trust.

Approved July 7, 1971

Substitute House Bill No. 6210

PUBLIC ACT NO. 783

AN ACT CONCERNING INTEREST.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 37-1 of the general statutes is repealed and the following is substituted in lieu thereof: (a) The compensation for forbearance of property loaned at a fixed valuation, or for money, shall, in the absence of any agreement to the contrary, be at the rate of six per cent a year; and, in computing interest, three hundred and sixty days may be considered to be a year. (b) UNLESS OTHERWISE PROVIDED BY AGREEMENT, INTEREST AT THE LEGAL RATE FROM THE DATE OF MATURITY OF A DEBT SHALL ACCRUE AS AN ADDITION TO THE DEBT.

Sec. 2. Section 37-3 of the general statutes is repealed.

Approved July 8, 1971

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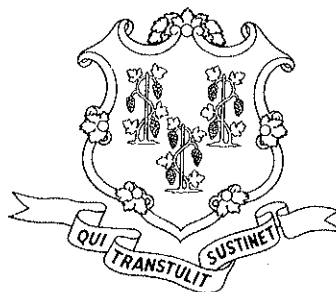
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THE GENERAL STATUTES OF CONNECTICUT

REVISION OF 1958

Revised to January 1, 1983



VOLUME IX

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Any sheriff or constable may levy any execution directed to him within his precincts.

(1949 Rev., S. 8094.)

Debtor need not reside in officer's precincts. K 182. Executions, when returnable to next court. 1 R. 101; 5 C. 169. Levy upon chattels not invalidated by a failure to return the execution. 45 C. 388. It is otherwise with mesne process. *Id.* Where defendant dies, after judgment, execution may issue against estate of deceased in hands of administrator. 85 C. 577. Issuance where notice of appeal is filed, but judge deems it to be only for purpose of delay. 72 C. 444. Whether assignee of judgment can take out execution in his own name, *quære*. 82 C. 208.

Sec. 52-349. Interest on judgments collected on executions. Legal interest on the amount of the judgment shall be collected on the execution issued thereon; and, in any case in which judgment is entered upon a verdict after the trial court has denied a motion to set it aside and, upon an appeal from such denial to the supreme court, that ruling has been affirmed, or after the trial court has granted such a motion but its ruling has been reversed upon such an appeal, legal interest upon the amount of the verdict from the time it was rendered shall be collected on the execution upon the judgment.

(1949 Rev., S. 8092.)

Interest on judgment, collection of which is stayed by injunction, allowed when. 80 C. 431. Computation of interest where judgment is affirmed except for addition of one item in bill of particulars. 105 C. 244. Entry of judgment *nunc pro tunc* justified, when. 112 C. 453. Unless verdict is set aside, interest runs from date of verdict. 145 C. 74. Cited. 160 C. 534. Failure to include interest is judicial error. 17 CS 151. Cited. 6 Conn. Cir. Ct. 647.

Sec. 52-350. Execution upon unsatisfied judgment of justice. Section 52-350 is repealed.

(1949 Rev., S. 8095; 1959, P.A. 28, S. 204.)

Sec. 52-351. New judgment to include unsatisfied costs of execution. Any court issuing an execution on which the costs thereon are not wholly satisfied, upon written motion of the plaintiff and such notice to the judgment debtor as the court rendering the original judgment deems reasonable, may render a new judgment which may include the prior judgment and costs and all unsatisfied costs of the first execution, and the original judgment shall thereupon be vacated.

(1949 Rev., S. 8096; 1959, P.A. 28, S. 186.)

History: 1959 act deleted references to executions issued and judgments rendered by justices of the peace.

Sec. 52-352. Property exempt from attachment and execution. Section 52-352 is repealed.

(1949 Rev., S. 8104; P.A. 74-64; P.A. 77-466, S. 4.)

Sec. 52-352a. Definitions. For the purposes of this section and sections 52-352b and 52-352c, the following terms shall have the following meanings:

- (a) "Value" means fair market value of the exemptioner's equity or unencumbered interest in the property;
- (b) "Necessary" means reasonably required to meet the needs of the exemptioner and his or her dependents including any special needs by reason of health or physical infirmity;
- (c) "Exempt" means, unless otherwise specified, not subject to any form of process or court order for the purpose of debt collection;

Sec. 2. This act shall take effect from its passage.

Approved May 24, 1972.

Senate Bill No. 4
PUBLIC ACT NO. 292

AN ACT CONCERNING INTEREST ON JUDGMENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Interest at the rate of six per cent a year, and no more, may be recovered and allowed in civil actions, including actions to recover money loaned at a greater rate, as damages for the detention of money after it becomes payable except as otherwise provided with respect to demand obligations in section 42a-3-122 (4) (a) of the general statutes. Judgment may be given for the recovery of taxes assessed and paid upon the loan, and the insurance upon the estate mortgaged to secure the loan, whenever the borrower has agreed in writing to pay such taxes or insurance or both. Whenever the maker of any contract is a resident of another state or the mortgage security is located in another state, any obligee or holder of such contract, residing in this state, may lawfully recover any agreed rate of interest or damages on such contract until it is fully performed, not exceeding the legal rate of interest in the state where such contract purports to have been made or such mortgage security is located.

Sec. 2. This act shall take effect from its passage.

Approved May 24, 1972.

Substitute House Bill No. 5521
PUBLIC ACT NO. 293

AN ACT CONCERNING EXEMPTION OF UNEMPLOYMENT
COMPENSATION APPEALS AND THE EMPLOYMENT SECURITY
DIVISION FROM THE PROVISIONS OF THE ADMINISTRATIVE
PROCEDURES ACT, IN ACCORDANCE WITH THE FEDERAL
SOCIAL SECURITY ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Appeals from the decisions of the administrator of the unemployment compensation act, and appeals from the unemployment commissioners to the courts, as is provided in chapter 567 of the general statutes, as amended, are excepted from the provisions of chapter 54 of the 1971 supplement to the general statutes (1971, P.A. 854).

Sec. 2. In the case of conflict between the provisions of said chapters and statutes relating to limitations of periods of time, procedures for filing appeals, or jurisdiction or venue of any court or tribunal governing unemployment compensation, employment security or manpower appeals, the provisions of the law governing unemployment compensation, employment security and manpower appeals shall prevail.

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May 2, 1972

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the vote on the roll call with regards to Senate Rules 24 and 37.

CHAIR:

So ordered. Senator Mondani.

SENATOR MONDANI:

Mr. President just a parliamentary question. Does this remain a Disagreeing Action or what at this stage?

CHAIR:

In the Chair's opinion the bill is dead. It has been to Disagreeing Action. Look just a moment on page 97 of the Joint Rules. The Committee of the House making the appointment passing the bill or amendment shall state its reasons to be reported to the other House and neither House shall request the other to twice confer on the same point of disagreement. Whenever each House has adhered to its vote or disagreement the bill or resolution is to be considered as lost. The bill is defeated. Senator Caldwell.

SENATOR CALDWELL:

Mr. President may we proceed to page 4. first item on the foot of the Calendar. Cal. 48.

CHAIR:

So ordered no objection. Senator Jackson.

CLERK:

Please turn to page 4. Cal. 48. File 72. Favorable Report Joint Standing Committee on Judiciary. S.B. 4. AN ACT CONCERNING THE INITIATION OF AN INVESTIGATION BY A TENANT'S REPRESENTATIVE.

May 2, 1972

CHAIR:

Senator Jackson.

SENATOR JACKSON:

Mr. President I move acceptance of the Joint Committee's Favorable Report and passage of the bill. The Clerk has an amendment. I would waive the reading of the amendment and explain it.

CHAIR:

If there is no objection, so ordered. Will you move the adoption of the amendment?

SENATOR JACKSON:

I so move Mr. President. The Amendment deletes all reference to any thing connected with the Tenant's Representatives by deleting everything after the enacting clause and inserting there in lieu of the fact that interest will be calculated at the rate of 6% on judgements. We passed a bill here several weeks ago which would have provided interest at the rate of 8% on judgements. I understand this bill was vetoed, however, we need the bill at 6% to maintain the existing law which is in doubt on several issues so I would urge adoption and passage of this bill as amended. What we are doing is restoring and clarifying the fact that interest at the rate of 6% shall be obtainable on judgements.

CHAIR:

The question is on the amendment which is an entirely different bill actually taking the title of another bill, as we understand. Will you remark on the amendment. If not all those in favor of adopting the amendment signify by saying aye. Opposed nay. The ayes have it. The amendment

May 2, 1972

is adopted. The question is now on the bill as amended. It is not necessary the bill be ruled technical under the rules because it is after April 26.

Senator Jackson.

SENATOR JACKSON:

I believe the remarks are self explanatory. I urge passage of the bill.

CHAIR:

Will you remark further on the bill as amended? Hearing none. All those in favor of the bill as amended signify by saying aye. Opposed nay. The ayes have it the bill is passed.

CLERK:

Clerk has two bills to be read in. They are accompanied by emergency certification.

S.B. 336. AN ACT CONCERNING EMPLOYMENT OF ALIENS LEGALLY IN THE UNITED STATES.

CHAIR:

Labor Committee.

CLERK:

S.B. 337. AN ACT CONCERNING THE REDISTRICTING OF CONNECTICUTS CONGRESSIONAL DISTRICT.

CHAIR:

Elections Committee.

Senator Smith do you wish to be recognized at this time?

SENATOR SMITH:

Yes Mr. President a point of information on the emergency certification for the bill concerning aliens. Is it proper to make a motion to

Wednesday, May 3, 1972

BUSINESS FROM THE SENATE

S.B. No. 4. An Act concerning the initiation of an investigation by a tenants' representative. As amended by Senate Amendment Schedule "A":

JOHN A. CARROZZELLA:

Mr. Speaker, I move for acceptance of the Joint Committee's favorable report and passage of the Bill as amended.

MR. SPEAKER:

Question's on acceptance and passage as amended. Will you remark.

JOHN A. CARROZZELLA:

Mr. Speaker, will the Clerk please call Senate Amendment Schedule "A".

MR. SPEAKER:

The Clerk will call Senate Amendment Schedule "A".

THE CLERK:

Senate Amendment Schedule "A" was offered by Senator Jackson, of the Fifth District and bears L.C.O. No. 486.

JOHN A. CARROZZELLA:

Mr. Speaker, with your permission I'd like to summarize the Amendment.

MR. SPEAKER:

Is there objection? Hearing none, the gentleman will outline the Amendment.

JOHN A. CARROZZELLA:

Mr. Speaker, what the Amendment actually is is the Bill. It strikes out everything after the enacting clause and substitutes

Wednesday, May 3, 1972 3

in lieu thereof a provision relative to interest on judgements. E
As you will recall, we passed a Bill earlier this Session relative
to interest on judgements, because at the present time there are
no statutes relative to interest on judgements. The Bill we passed
was for eight percent. However, the Governor vetoed that Bill and
said that the most that he felt would be reasonable would be six
percent. The intent of this Bill, therefore, is to comply with his
veto message and give a Bill of interest of six percent. I move
adoption of Senate Amendment Schedule "A".

MR. SPEAKER:

Will you remark further on Senate "A".

ROBERT G. OLIVER:

Mr. Speaker, speaking in support of Senate "A", as the
gentleman from the 81st indicated this corrects a long series of
unfortunate hassles. We attempted last year to increase it from
six to eight, (inaudible) the Bill, it became law, signed by the
Governor, I might say. Times change in a year, Governor. But
nonetheless, subsequent Public Act, about a hundred numbers later,
we repealed that Bill. Clearly in error. Clearly by inadvertance.
And we were left since last October 1st with no statute whatsoever
with respect to interest on judgements. Some enterprising attor-
nies are collecting eight percent. Some clerks only allow six
percent. If the defense bar were only aware of it, no one would
get anything. So we put through the Bill, Public Act 83, at eight
percent. The Governor vetoed it. And now we're back here. It
wasn't really in the best interest to attempt to override the veto.
And quick thinking in the Senate, and we're happy to see that for

Wednesday, May 3, 1972.

a change, coming down to the House. I think six percent is at least is what we've had for many years, and it's necessary to get it on and get it on quickly.

MR. SPEAKER:

Further remarks on Senate "A". If not, all those in favor indicate by saying "aye". Opposed. Senate "A" is adopted and ruled technical. Will you remark further on the Bill as amended.

JOHN A. CARROZZELLA:

I now move for acceptance and passage as amended.

MR. SPEAKER:

Further remarks. If not, all those in favor indicate by saying "aye". Opposed. The Bill as amended is passed. The House will stand at ease. Would the gentleman from the 118th come to the rostrum. Representative Ajello. The House will stand at ease. We'll be at ease until quarter of four. We will then come back in and commence action for consideration of a Bill under certification concerning Congressional redistricting. The House will stand at ease until quarter of four. The House will come to order.

CARL R. AJELLO, JR.:

Mr. Speaker, I move that we recess until five o'clock, P.M.

MR. SPEAKER:

Will you remark on the motion.

CARL R. AJELLO, JR.:

Mr. Speaker, there is no business presently before us. We hope to ascertain whether or not the Senate will send us