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erage Law constitutes a misdemeanor, unless otherwise specified. N.J.S.A. 33:1-51. It is the duty of Division inspectors and investigators to arrest all persons whom they shall have reasonable ground to believe are committing or have committed a misdemeanor under said chapter and to make complaint against such persons as in other cases of misdemeanors. N.J.S.A. 33:1-66(a). The Director, his deputies and Division inspectors and investigators are exempt from the prohibitions of the concealed weapons act. N.J.S.A. 2A:151-43(p).

From the foregoing, it is apparent that the Division of Alcoholic Beverage Control is a "law enforcement agency" within the intendment of Chapter 161. With respect to the municipal authorities which issue retail licenses, it is unreasonable to believe that the Legislature intended to impose different standards of eligibility upon those whose licenses are issuable by municipal agencies, rather than by the Director. Indeed, in some instances, the selfsame type of license is issuable by both the Director and municipal issuing authorities. N.J.S.A. 33:1-20. Also, the Director is responsible for the overall supervision of the liquor control system, including the activities of the municipal authorities. In these circumstances, it is assumed that the Legislature intended to provide uniformity in the alcoholic beverage field and that, accordingly, the exemption in Section 7 inuring to the Division is equally applicable to other alcoholic beverage issuing authorities.

In sum, you are advised that neither Chapter 282 of the Laws of 1968 nor Chapter 161 of the Laws of 1974 is applicable to the determination of whether persons convicted of crime are eligible to be associated with the alcoholic beverage industry. Such eligibility continues to be governed by the provisions of the Alcoholic Beverage Law and the Division's rules and regulations adopted pursuant thereto.

Very truly yours,

WILLIAM F. HYLAND

Attorney General of New Jersey

BY: DAVID S. PILTZER

Deputy Attorney General

April 16, 1975

RICHARD C. LEONE, *State Treasurer*
Department of the Treasury
State House
Trenton, New Jersey 08625

FORMAL OPINION NO. 5 - 1975

Dear Treasurer Leone:

You have inquired as to the maximum interest payable on bonds issued pursuant to the New Jersey Green Acres and Recreation Opportunities Bond Act of 1974, P.L. 1974, c. 102 (hereinafter referred to as the "Bonds"). You have also inquired as to whether the State can be classified as a corporation for purposes of this Act, so

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that there would be, in effect, no limit as to the interest rate payable on such Bonds. Please be advised that the maximum interest rate payable on these Bonds is 8%.

The Act provides with respect to the interest rate payable as follows:

“ . . . Each series of bonds shall bear such rate or rates of interest, that the aggregate amount of interest payable over the life of such series, less the premium, if any, received upon the sales thereof, shall not *exceed an amount not in excess of the maximum rate of interest per annum fixed pursuant to R.S. 31:1-1* computed over the life of such series, . . . ” P.L. 1974, c. 102, § 12.

Inasmuch as N.J.S.A. 31:1-1 provides for two different rates and contains several exceptions, the applicable usury ceiling “fixed pursuant to R.S. 31:1-1” must be determined.

N.J.S.A. 31:1-1 provides in pertinent part:

“(a) Except as otherwise provided by law, no person shall, upon contract, take, directly or indirectly for loan of any money, wares, merchandise, goods and chattels, above the value of \$6.00 for the forbearance of \$100.00 for a year, except that the Commissioner of Banking . . . may by regulation . . . provide that the value which may be taken for any such loan shall be a value more than \$6.00 but not more than \$9.50 for the forbearance of \$100.00 for a year

“(b) . . . Any such regulation shall have prospective effect only, and any rate established in excess of 8% shall apply only to loans secured by real estate on which there is erected or to be erected a one, two or three family dwelling occupied or to be occupied by the borrower. Notwithstanding the provisions of paragraph (a) of this section, contracts for the following classes or types of loans may provide for any rate of interest which the parties agree upon

“(1) loans in the amount of \$50,000.00 or more, except loans where the security given is a mortgage on real property consisting of a lot of land upon which there is constructed or in the course of construction a dwelling house of three family units or less. The rate of interest stated in such contract upon the origination of such loans may be taken notwithstanding that any payments thereon reduce the amount outstanding to less than \$50,000.00;

“(2)”

The Commissioner has set by regulation a rate of 9-¼% for all loans secured by real estate on which there is erected or to be erected a one, two or three family dwelling occupied or to be occupied by the borrower, and a rate of 8% for all other loans subject to a usury ceiling. N.J.A.C. 3:1-1.1.

The issue resolves itself to the question of which specific provision in the usury statute applies to the transaction contemplated by § 12 of the Act, *i.e.*, the 8% ceiling, the 9-¼% ceiling, or an unlimited rate. It is obvious that the 9-¼% rate does not apply, inasmuch as it is limited to loans secured by real estate on which there is erected or to be erected a one, two or three family dwelling occupied or to be occupied

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by the borrower. The unlimited rate provided in N.J.S.A. 31:1-1(b)(1) for loans in the amount of \$50,000.00 or more also would not logically apply. To construe this section in such a way that the reference to N.J.S.A. 31:1-1 would be a reference to no interest limit at all would be to render this section of the Bond Act meaningless. Such a construction is to be avoided. *State v. Sperry & Hutchinson*, 23 N.J. 38, 46 (1956). It is well settled that statutes are to be read to give purposeful significance to all of the words used by the Legislature. *Quinn v. Quinn*, 118 N.J. Super 413 (Ch. Div. 1972). It is also fair to assume legislation is intended to have a meaningful purpose and not be mere surplusage. Such a reasonable approach can be obtained by assuming that the Legislature intended to refer to the general usury limitation promulgated by the Commissioner pursuant to N.J.S.A. 31:1-1, *i.e.*, 8%.

This construction is further supported by the fact that where the Legislature in the same session intended to allow unlimited interest to be paid on State bonds, it clearly expressed its purpose in the following manner:

“ . . . Each series of bonds shall bear such rate or rates of interest as from time to time may be determined by the issuing officials, which interest shall be payable semi-annually; . . . ” P.L. 1974, c. 112, § 9; P.L. 1974, c. 113, § 8; P.L. 1974, c. 117, § 13.

If the Legislature intended to allow for unlimited interest in P.L. 1974, c. 102, § 12, it would probably have set forth its purpose in the same fashion.

This conclusion is not altered by the provisions of N.J.S.A. 31:1-6, which provides that:

“No corporation shall plead or set up the defense of usury to any action brought against it to recover damages or enforce a remedy on any obligation executed by such corporation.”

An analysis of the very nature of the State and a corporation discloses that the State cannot be considered a corporation. The State of New Jersey is a sovereign entity, *Mayor, etc., Elizabeth v. N.J. Turnpike Authority*, 7 N.J. Super. 540, 545 (Ch. Div. 1950), whereas a corporation is an artificial entity which derives its existence from a State franchise. *Harker v. McKissock*, 12 N.J. 310, 316 (1953). See also *Leonard v. State Highway Dept. of New Jersey*, 29 N.J. Super. 188, 196 (App. Div. 1954). Thus, it is clear that the State does not for this reason fall within the exception to the ceilings on allowable interest contained in N.J.S.A. 31:1-1.

For the reasons stated above, the maximum interest payable on bonds issued pursuant to the “New Jersey Green Acres and Recreation Opportunities Bond Act of 1974” is 8%.

Very truly yours,
WILLIAM F. HYLAND
Attorney General of New Jersey
By: MICHAEL E. GOLDMAN
Deputy Attorney General