

**CRIMINAL USURY FIRST DEGREE**  
**(Prior Conviction)**  
**Penal Law § 190.42**  
**(Committed on or after Sept. 1, 1976)**

The (*specify*) count is Criminal Usury in the First Degree.

Under our law, a person is guilty of Criminal Usury in the First Degree when, not being authorized or permitted by law to do so, he or she knowingly charges, takes or receives any money or other property as interest on the loan or forbearance of any money or other property, at a rate exceeding twenty-five per centum per annum or the equivalent rate for a longer or shorter period [and the actor has previously been convicted of the crime of criminal usury or the crime of attempt to commit criminal usury.<sup>1</sup>]

The following term used in that definition has a special meaning:

A person KNOWINGLY charges, takes or receives any money or other property as interest on the loan or forbearance of any money or other property at a rate exceeding twenty-five per centum per annum or the equivalent rate for a longer or shorter period when that person is aware that he or she is doing so.<sup>2</sup>

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, each of the following five elements:

1. That on or about (*date*), in the county of (*county*), the

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<sup>1</sup> With respect to a previous conviction referred to in the statute, the defendant must be arraigned upon a special information alleging the previous conviction, in accordance with the procedure set forth in CPL § 200.60(3). If, upon such arraignment, the defendant admits the previous conviction, the court must not make any reference to it in the definition of the crime or in listing its elements. But if the defendant denies the previous conviction or remains mute, the court must add this element to the definition of the crime and the list of elements. See, *People v Cooper*, 78 NY2d 476 (1991).

<sup>2</sup> See Penal Law § 15.05 (2).

defendant (defendant's name), charged, took or received any money or other property as interest on the loan or forbearance of any money or other property;

2. That the rate of interest on the loan or forbearance of any money or other property exceeded twenty-five per centum per annum or the equivalent rate for a longer or shorter period; and

3. That the defendant did so knowingly; [and]

4. That the defendant was not authorized or permitted by law to do so; [and]

[5. That the actor has previously been convicted of the crime of criminal usury or the crime of attempt to commit criminal usury.]

If you find the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.